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By **P.L. LAKHANPAL**

ESSENTIAL DOCUMENTS AND NOTES ON KASHMIR DISPUTE

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2nd Revised & Enlarged Edition

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1965

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DEDICATED

To

The memory of late Jawaharlal Nehru, notwithstanding his unjust and unkind criticism of me, in private and public, for my disagreement with his Kashmir policy promoting a closer study of the subject on my part, for his decision in 1964 to work out a negotiated settlement of the dispute with Pakistan which unfortunately could not be implemented because of his untimely death on May 27, of the same year ;

To

V.K. Krishna Menon for his various "terminological inexactitudes" about India, Kashmir and myself in the Security Council of the U. N. during its 1957 discussion of the Kashmir issue which provided an idea for the compiling of this work ;

And To

All those who believe in and work for India-Pakistan friendship and cooperation to which the continuance of Kashmir dispute constitutes the biggest impediment.

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He also acknowledges his debt to Allen Campbell Johnson's "Mission with Mountbatten" Josef Korbel's 'Danger in Kashmir', Ian Stephen's "Horned Moon", Cunningham's "History of the Sikhs", Prem Nath Bazaz's, "History of the Freedom Struggle in Kashmir", Tendulkar's "The Mahatma' and V. P. Menon's 'Integration of Indian States, which, among various other publications, proved of great help to him in writing his prefatory notes.

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Introduction To Second Edition

It is a rare distinction indeed for any book on Kashmir dispute to be acknowledged as a standard reference work on the subject both in India and Pakistan and in the Western and Communist circles. When this book was first published the customary question asked about any book on Kashmir in India and Pakistan used to be : Is it pro-India or pro-Pakistan ?

The first reviews of the book appearing on one and the same date in Pakistan's premier daily 'Dawn', Karachi, and India's highly respected 'Hindu', Madras, complimenting the author on a 'highly creditable achivement' and 'painstaking work', established the veracity of my claim that this book was written neither from a pro-India nor a pro-Pakistan angle and that the only object in view had been to provide in a single volume all the essential documents and references having a bearing on the Kashmir dispute beginning with the Treaty of Lahore of 1846.

Many new developments connected with Kashmir dispute since this book was first published have necessitated the publication of the present revised and enlarged edition. The first chapter of the book Kashmir—the Place, its History and Politics' has been completely rewritten to include many new facts and the latest population and area statistics. Practically none of the old documents has been dropped while many new have been included. Prefatory notes to various sections have also been revised to give additional information where necessary. Two new chapters – 'Constitutional Relationship of Kashmir with India and Pakistan', and "Some Solutions of Kashmir Dispute" have been added for the benefit of students of law and history.

The treatment of the matter in this edition has been on identical lines as in the first. I have endeavoured, as far as possible, to maintain a balance in the selection of documents reflecting the Indian and Pakistani points of view, and Western and Communist attitudes in the matter. Resolutions adopted by the Security Council and the UNCIP and the reports submitted to the Council by Sir Owen Dixon, Dr. Gunnar Jarring and Dr. Frank P. Graham have been included in full while only concrete proposals from the reports of the UNCIP are quoted in extenso, the rest being summarised.

Truth and knowledge have been the governing considerations in the preparation of this work. Truth and knowledge must come before one's country. A proper understanding of the Kashmir problem among the people of India and Pakistan in particular, and the world in general,

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can help bring about an ultimate negotiated settlement of the dispute which constitutes the biggest impediment in the way of Indo-Pakistan amity, so essential in the interest of the two. I hope this volume makes some contribution to that end.

I cordially invite all readers to send in their criticism and suggestions for improvement which will be gratefully acknowledged in the next edition.

9821 Nawab Gunj
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April 24, 1965.

P. L. Lakhanpal

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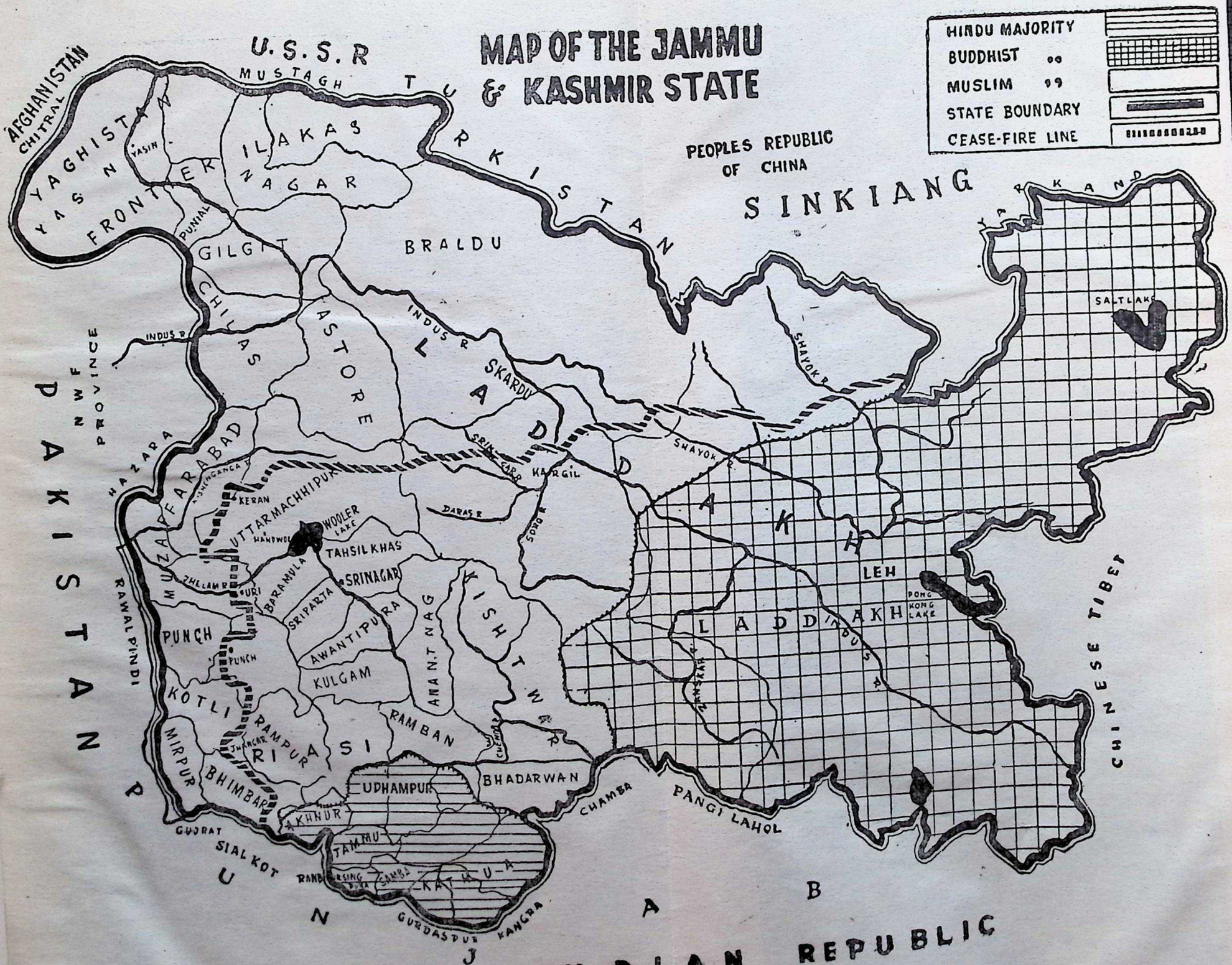

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Section I

Kashmir—the Place, its History and Politics

The State of Jammu and Kashmir—Kashmir in popular parlance—lies between 32.17° and 36.58° North parallel and 73.26 and 80.30 East longitude.

The State borders on five nations—India, Pakistan, China, (Tibet and Sinkiang) Afghanistan and the USSR. Many miles of its irregular borders are yet to be internationally determined. Running along Sinkiang in the North-East for about 400 miles, its border line joins Tibet in the East for some 450 miles, proceeds along the Indian border in the South-East for another 350 miles and then adjoins Pakistan in the South and South-West for about 700 miles to meet Afghanistan in the North-West where it turns eastward for nearly 160 miles to end in a somewhat unclear position. On some maps it is shown as running along the borders of the USSR for some 20 miles while on others it terminates at a common point on the borders of the USSR and Sinkiang.

While there has been practically no change in its boundaries during the last century, varying area figures for the State territory have been adopted in almost all census reports since 1901. Frederick Drew in his book on Jammu and Kashmir territories published in 1857 put the State's area at 65,000 square miles but this was a mere conjectural estimate not based on any assessment. Settlement operations were carried out for the first time in 1889 by Col. Walter R. Lawrence and on the basis of information supplied by him and that given in the Gazetteer of India, the area of the State was adopted at 80,900 square miles in the Census Report of 1891. At that time the State was divided into three administrative divisions : the Province of Kashmir, the Province of Jammu and the Frontier Ilaqas which were further sub-divided into ten districts namely Muzaffarabad, Khas, Gilgit, Ladakh, Jammu Khas, Bhimber, Jasrota (Kathua), Udhampur, Poonch Jagir, and Bhadarwah Jagir. The district areas are not given except for Jammu Khas (1159 sq. miles) in this report. The same area figures are given in the Census Report of 1901.

By the year 1911 the State was divided into 13 districts, A new district appeared in each Province. The area of the State also seems to have been reassessed and fixed at 84,432 square miles. The 1911 Census Report gives the district-wise area as such. Kashmir North : (1) Baramulla District 3,553 sq. m., Kashmir South : (2) Anantnag District 2,806 sq. m., (3) Muzaffarabad Distt. 2.074 sq. m., Frontier Ilaqas: (4) Gilgit Distt. 3,118 sq. m. (5) Ladakh Distt. 45,762 sq. m. (6) Frontier Ilaqa 14,680 sq. m., Jammu Province : (7) Jammas Khas 1,167 sq. m. (8) Jasrota Distt. 989 sq. m. (9) Reasi Distt. 1,875 sq. m. (10) Udhampur Distt. 4,399 sq. m. (11) Mirpur 1,754 sq. m. (12) Poonch Jagir 1,648 sq. m. and Bhadarwah Jagir 607 sq. m.

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The Census Report of 1921 reduced the area of the State to 84,258 sq. miles. The Census Report of 1931, however, increased it to 84,471 sq. miles. During this period no change was made in the districts of Kashmir and Frontier Ilaqas except that Kashmir North was now called Baramulla and that headquarters of Kashmir South were shifted from Anantnag to Srinagar. In Jammu Province, however, the Jagir of Bhadarwah was merged in the district of Udhampur and a new district comprising Chenani Jagir was established. The Jasrota district was renamed Kathua where headquarters of the district were also shifted.

In 1941 the Census Commissioner put the area of the State at 82,258 square miles—112 square-mile increase in Gilgit leased area and 2,325 sq. mile decrease because of realignment of NWF in 1934 on the transfer to it of the Province of Indus Kohistan. But he repeated the figure of 84,471 sq. m. under instructions from the State Government.

The 1961 Census Report says that 'the Director, Map Publication, Survey of India, has 'now intimated that the Census Map of India, appearing after page 22 in 1941 report does not show the Northern portion of the State boundary constituting the external boundary of India. The area figures supplied prior to 1959 were based on boundary shown in the said map and were only estimates for the Northern districts which were uncovered by modern surveys or large-scale maps. The Directorate being now in possession of ¼ inch maps covering the area with external boundary marked on them had after fresh planimetering on these maps assessed the correct area of the State at 86,023 square miles'. The 1931 map was described as 'grossly in error all around in regard to external boundary of India.' The area on the Indian side of the cease-fire line is put at 53,66 4.9 sq. miles.

During the inter-census period of 1931-41 the districts in the State were reorganized and their number raised to 14. They were (1) Jammu 1,147 sq. miles (2) Kathua 1,023 sq. miles (3) Udhampur 5,070 sq. miles (4) Reasi 1,789 sq. m. (5) Mirpur 1,789 sq. m. (6) Chenani Jagir 95 sq.m. (7) Poonch Jagir 2,627 sq. miles (8) Baramulla 3,317 sq. miles (9) Anantnag 2,814 sq. miles (10) Muzaffarabad 2,408 sq. miles (11) Ladakh 45,762 sq. miles (12) Astore 1,632 sq. miles (13) Gilgit Leased Area 1,480 sq. miles (14) Gilgit Agency 14,680 sq. miles. The main change was the setting up of the Astore district and renaming of Frontier Ilaqas as Gilgit Leased area.

The cease-fire enforced at one minute before midnight of Jan. 1, 1949 caused three whole districts—Astore, Gilgit Leased Area, and Gilgit Agency—and five whole tehsils—Muzaffarabad, Skardu, Mirpur, Bagh and Sadhnuti to pass on to the other side of the cease-fire line constituting Azad Kashmir. Besides 638 whole villages, 44 part villages and 4 towns representing residual parts of such other tehsils as were truncated also form part of Azad Kashmir. The area on the other side of the cease fire line is estimated to be 32,358.1 square miles. Its population according to 1941 census stood at 1,074,898 and is estimated at around 1,300,000. The population on the Indian side of the cease-fire line according to 1941 census stood at 2,946,718.

After the splitting up of the State two new districts were set up, one with headquarters at Srinagar and the other at Doda. The Poonch Jagir was merged in the State and constituted into a full-fledged district first

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with headquarters at Rajouri and then at Poonch. Parts of the districts of Mirpur and Muzaffarabad which fell on Indian side of the cease-fire line were merged with contiguous districts of Jammu, Poonch and Baramulla. Five new tehsils with headquarters at Sopore, Sonawari and Ganderbal in Kashmir Province and Doda and Nowshehra in Jammu Province, were created with regrouped areas.

(Before 1947 Udhampur District comprised of Tehsils Udhampur, Kishtwar, Bhadarwah, Ramban and Ramnagar, while District Reasi comprised Tehsils of Reasi and Rajouri. Now Udhampur District consists of Tehsils Udhampur, Ramnagar and Reasi while Kishtwar, Ramban and Bhadarwah Tehsils have been joined on to the District of Doda and Rajouri Tehsil to the newly created Poonch-Rajouri District comprising part of Haveli and Mendhar which fell on the Indian side of the cease-fire line).

The State before the year 1947 was divided into three administrative units : Jammu, Kashmir and the Frontier Districts. These divisions also roughly conformed to the geographical divisions of the State with the qualification that the high mountainous and sparsely populated areas included in the Astore District and Gilgit formed a separate geographical unit distinct from the plateau of Ladakh. As for the area and population of there regions. According to 1941 census, the Province of Jammu covered an area of 12,378 square miles and had a population of 19,81,433 of which 12,15,676 were Muslims ; Kashmir had an area of 8,639 square miles and a population of 17,28,705 with 16,15,478 Muslims among them while Frontier districts extended over a territory covering 63,554 square miles with a population of 311,478 of which 270,093 were Muslims. In Ladakh Tehsil Buddhists—32,000 out of 36,000—predominated but in Kargil Tehsil of the Ladakh district they were only 8,000 in number out of 44,000. The total population stood at 40,21,616 of which Muslims constituted 77.11 per cent, Hindus 20.12 per cent and the Sikhs 1.64 per cent. Muslims formed 93.7 per cent of the population in the Kashmir Valley, 61 percent in Jammu Province and 87.46 per cent in the Frontier Districts. In the Jammu Province they were concentrated in areas mainly North and West of the Chenab river most of which went to form part of Azad Kashmir in 1947 thus effecting a change in the pattern of population in the Jammu province as administered from Srinagar.

No census was held in the State in 1951. The 1961 Census Report puts the total area of the Indian part of the State of Jammu and Kashmir at 53,664.9 square miles and population at 3,560,976 of these 68.29 per cent (2,432,067) were Muslims, 29.57 per cent (1,013,193) Hindus and 1.77 per cent 63,069 Sikhs. Besides these principal communities the population included 48,360 Buddhists, 2,848 Christians, 1,427 Jains and 12 belonging to other denominations.

Region-wise Kashmir Province which now includes Ladakh had a population of 1,988,089 and covered an area of 43,591.8 square miles of which 5,838 square miles formed part of the Kashmir Valley. Ladakh population stood at 88,651 of which 40275 were Muslims, 47,708 Buddhists, 575 Hindus, 83 Sikhs and 10 others. Kashmir Valley had a population of 1,899,438 of which 1,793,300 or 94.41 per cent were Muslims and 89,102 or 4.66 per cent Hindus. Besides there were 16,796 Sikhs, 314 Christians, 11 Buddhists, 5 Jains and 3 others.

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Jammu with a population of 1,572,887 covers an area of 10,073.1 square miles. Whereas before 1947 Jammu Province was a predominantly Muslim (61 per cent) majority area, now they constitute 38.04 per cent (598,492) of the population. Hindus number 923,516, or 58.65 per cent and Sikhs 46,273 or 2.9 per cent of the total. The strength of other communities was Christians 2,534, Jains 1,422, Buddhists 641 and others 9. For district-wise figures reference may be made to the population chart at the end of the chapter.

The climate in the State ranges from the arctic cold of Ladakh and Frontier districts to the tropical heat of the Jammu plain. The Valley of Kashmir which is the only other plain in the State is extremely cold in winter and has a moderate climate in summer. The Valley—85 miles long and 25 miles wide—lies about 5,000 feet above sea level and is rich in fruits of all kinds, in maize, rice, saffron and wood. Jammu, mostly a succession of mountain ranges and plateaus, is rich in minerals still to be exploited. Pir Panjal, 18.000 feet in height, separates Jammu from the Kashmir Valley. In the North the rugged mountains are topped by the world's second highest peak Mt. Goodwin Austin. Chenab, Jhelum, and Indus are the principal rivers of the State which before 1947 served as the chief means of transport for timber from which the State derived about one third of its revenues till then. The 263-mile long Srinagar-Pathankot road and 197-mile long Srinagar-Rawalpindi Road are the only two highways linking the State with outside world. The construction of the Banihal Tunnel in 1957 reduced the road distance by 18 miles and considerably improved communication with India but in case of heavy snow Valley, even today, remains inaccessible for 8 or 10 days at a time in winter. Srinagar, the principal city of the Valley, (population about 300,000,) is the Capital of the Indian part of the State while Jammu serves as its winter headquarters. The headquarters of Azad Kashmir Government are located at Muzaffarabad.

Kashmiri and Dogri are the main languages spoken in the State. Kashmiri, the language of the Valley, is an admixture of Sanskrit and Persian with the former predominating while Dogri, spoken in the Jammu Province, is akin to the Punjabi language particularly as spoken in the hilly regions and also as in Himachal Pradesh. Ladakhis speak a language of their own which has much in common with the Tibetan language while those inhabiting the Frontier districts have a distinct dialect of their own. Among them people of Hunza and Nagar, two small States in the North, speak Burushaki, a non-Aryan tongue of unknown affinities. Urdu, in Persian script, is the official language of the State on both sides of the case-fire line.

ACCORDING to Kalhana, the 12th century historian of Kashmir and the author of the famed work "Rajtarangini," history of the civilized man in Kashmir begins from 2450 B.C. when Gonanda 1 ascended the throne and established the monarchial system of Government in the Valley. Twenty-one dynasties ruled Kashmir till 1339 A.D. when Muslim rule was established, Shah Mir being the first outside Muslim to become its ruler. Gonanda and after him his son Damodara are said to have lost their lives in war against Lord Krishna of Mahabharat times. Dowager Queen Yashovati ascended the throne after the death of Damodara to become the first woman ruler of Kashmir.

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Little information is available about the political, social and economic conditions of the people of those times. In fact nothing is known about 35 out of 52 kings of the early times who are given up as lost by Kalhana although one of them, Ramdeva, is stated to have brought the whole of India between the Bay of Bengal and the Arabian Sea under his sway.

Emperor Asoka (274 B. C to 237B. C) conquered Kashmir around the middle of third century before Christ. With him came Buddhism to the State to free it of the degenerate and repressive Brahmanism of the time. Nagas were the first to accept the four noble truths and the eight-fold path of righteous conduct preached by the Buddha. Many missonaries were sent by Asoka to the Valley, Mujhantika being the first, to preach the new doctrine. He also set up many Stupas and Viharas. No concrete evidence is available about the Emperor himself having visited the Valley but he is presumed to have laid the foundations of the present city of Srinagar at a site known as Pandrethan. After his death Kashmir seems to have regained independence with Jalauk as the new monarch.

The Kushans conquered the Valley in the first century after the death of Christ and ruled it till 178 A.D. when they were succeeded by the Gonanda dynasty. the Gonandas tried to revive Brahmanism but the Buddhist preaching having deeeply influenced the minds of people, the attempt led only to the fusion of the two philosophies to give birth to Shaivism—the faith of the Kashmiri Pandits. In the early part of the 6th century Mihirgul the Hun, granted asylum in the State after his defeat in India, captured power through a *coup* and established a tyrannical regime which ended with his suicide in 530 A.D. when the Gonandas were restored to power.

The tyrannies of Mihirgul put the people on their guard. They realized the need for a check on the powers of the monarch. Accordingly, to quote Kalhana, a council of ministers with powers to dethrone the monarch for misrule was established. The council, according to him, actually dethroned the last ruler of the dynasty, Yudhistra, for misconduct and invited an outsider, Pratapditya, to reign in his place. With the new ruler the Valley passed under the control of Vikarmaditya of Ujjain whose dynasty ruled the State for 192 years when King Jayendra who also tried to act as a despot was dethroned by the council of ministers and replaced by Sandhimati. That signifies a considerable progress in the direction of constitutional form of monarchy at a time when Kings everywhere else were all powerful and asserted their divine right to rule.

The period following Sandhimati's ascending the throne till 884 A.D. is known as the golden period of Hindu rule in Kashmir. Great progress is recorded in the spheres of art, literature, architecture and constitutional development. But the history of Kashmir from 884 A. D. onwards for some 450 years is but a sordid record of perpetual intrigue and assassinations. The only two notable events of the period are the unsuccessful invasion of Mahmud Ghazanavi in 1015 A. D. and the harrowing depredations carried by Dulcha, the Tartar, in the Valley following his invasion in 1319. The Tartar and the whole of his army perished in snows in the winter the same year while withdrawing from the State.

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The second of these events is, however, of great significance in Kashmir's history. It was followed by Prince Rinchen, a West Tibetan Prince who came to the State shortly before Dulcha's invasion, ascending the throne, as the ruler, Sahadeva, had fled to Kishtwar in dread. King Rinchen wanted to be admitted to the Shaivite faith but was denied that privilege by the orthodox Brahmins. He instead turned to Islam and on conversion became King Sadar-Ud-Din, the first Muslim ruler of Kashmir. His reign was brief. He died in 1322 A.D. when his wife Kota Rani invited Sahdeva's brother, Udaynanda, to ascend the throne although he had left behind him a son, Haider. The State soon after was invaded by another desperado, Urwin, and the new King like his brother fled to Ladakh. Kota Rani, however, assisted by Shah Mir, a Muslim of Swat who had come to the Valley shortly before Dulcha's invasion and had later been granted a Jagir, put up a heroic defence in Kashmir and repulsed the invader. That won Shah Mir immense popularity among the masses. But Kota Rani invited Udaynanda back to power and after his death in 1338-herself assumed the reigns of office. Afraid of Shah Mir whose influence was at its peak in Srinagar, the Queen shifted to Andarkot near Sumbal, once the Capital of Kashmir and added to that another imprudent act—she appointed Bhikshana, one of her trusted nobles as the Prime Minister. Slighted and offended at being thus ignored, Shah Mir raised the standard of revolt, evoked spontaneous support of the masses, and swooped upon Andarkot putting Bhikshana to death. Kota Rani surrendered. Shah Mir offered to marry her but she committed suicide. Thus Muslim rule was established in the State with Shah Mir assuming the title of Sultan Shamas-Ud-Din in 1339. Islam spread rapidly thereafter. Main reason for the mass conversions appears to be the common features of the Trika philosophy and Islam. Faith in one God and equality between men is emphasised in both. Sectarianism and orthodoxy of the Brahmins also contributed to conversions. Shah Mir died in 1342 but the Muslim rule continued uninterrupted and the State made rapid all-round progress. About hundred years after Shah Mir, King Zain-Ul-Abidin introduced among the Kashmiri Muslims all the arts and crafts for which they are world-famous. Akbar conquered Kashmir in 1587 ending 250 years of its independence and the Moguls ruled it till 1752 when the Afghan kingdom gained control over it. The Moguls, particularly King Jahangir, gave Kashmir its beautiful gardens at Srinagar. The Afghans governed Kashmir for 67 years when the Sikhs obtained possession of it in 1819.

Jammu from times immemorial has been the capital of Dogra Rajput dynasty. It acquired some importance under a chief named Rana Ranjit Dev by the end of 18th century. The neighbouring country was split up into a number of hill principalities such as Kishtwar and Bhadarwah in the East, Basohli in the South, Bhimber and Rajouri in the West and N.-West. These were constantly quarrelling and at the beginning of 19th century became more or less subject to the Sikh Government of Punjab under Ranjit Singh. His services were joined by three grand nephews of Ranjit Dev—Gulab Singh, Dhyan Singh and Suchet Singh. Dhyan Singh became Minister to Maharaja and greatly benefited his family. Gulab Singh distinguished himself in 1820 by capturing the Chief of Rajouri. The principality of Jammu which had by then been annexed by the Sikhs was conferred by Ranjit Singh on Gulab Singh with the title of Raja. Shortly afterwards

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Dhyan Singh was made Raja of Poonch between Rajouri and Muzzafarabad and Suchet Singh obtained district of Ramnagar (just East of Jammu) as a chiefship. In the course of next 15 years the three brothers and specially the eldest had subdued all neighbouring hill principalities. After the murder in 1843 of Dhyan Singh followed soon after by the defeat and death of his brother Suchet Singh and murder of his son Hira Singh, Gulab Singh became the successor to all territories excepting Poonch which was confiscated by Lahore Government. By 1844 Gulab Singh had acquired authority over nearly all the country included in the Province of Jammu.

The early history of Ladakh and Baltistan is shrouded in mystery. Ladakh seems originally to have been part of Chinese Tibet. Around the beginning of 17th century it was conquered by the Balti Chief of Skardu. Then it became independent under a Gylapo or chief of its own. At the end of 18th century it was attacked by the Mogul tribe of Sokpos, but the invasion was repelled with the aid of Muslim Governor of Kashmir. From this time till 1834 it seems to have been an independent tributary of Kashmir. Baltistan appears to have been independent under Raja of Skardu till 1840. Ladakh and Baltistan were conquered in successive campaigns by Raja Gulab Singh's troops led by Zorawar Singh and Diwan Hari Chand between 1834 and 1842. In 1841 Raja Gulab Singh was sent along with Ghulam Mohyuddin to quell mutinous Army in the Valley which had murdered its Governor Mian Singh. The mission was successfully accomplished and Ghulam Mohyuddin, a close friend and dependent of Gulab Singh, was appointed the Governor of Kashmir, thus making the Jammu Raja virtual master of the Valley as well.

Gilgit, ruled till the beginning of the 19th century by independent Rajas of Tarkhane dynasty. some of whom gained considerable power, suffered a series of revolutions between 1810 and 1842. First Sulaiman Shah of Khushwaqt family of Yasin conquered it from the last Tarkhane Raja. He was killed and succeeded by Azad Khan of Punjab who in turn was killed by Tari Shah of Nagar. The latter was succeeded by Shah Sikandar who was killed and replaced by Gauhar Aman Khushwaqt of Yasin. Karim Khan, brother of Shah Sikandar sought the aid of the Governor of Kashmir to succeed to the throne. A Sikh Army under Nathu Shah was thereupon dispatched to expel Gauhar and install Karim Khan in his place. This they did in 1842 making Karim Khan the Raja of Gilgit in subordination to the Sikh Durbar at Lahore.

Thus by 1842 Raja Gulab Singh held Jammu and hill chiefships in more or less complete state of subjection and Ladakh and Baltistan by right of conquest. He seems to have indulged in intrigues to become the supreme master of the whole region which, however, miscarried and a Sikh Army advanced on him in 1845, forced him to surrender, and submit to a fine of Rs. 68 lakh and loss of his territory.

But soon thereafter came the war between the British and the Sikhs. Raja Gulab Singh's services were again utilized by the Sikh Durbar as a minister. He played a double game and asked for reward after the negotiation of peace treaty between the Sikhs and the British to which he had made a significant contribution. The British conceded his demand by putting him in independent possession of the present State of Jammu and Kashmir but in consideration of a sum of Rs. 75 Lakhs. That was effected through

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two treaties, the Treaty of Lahore and the Treaty of Amritsar. Gulab Singh died in 1857 and was succeeded by Ranbir Singh who ruled till 1885. Pratap Singh succeeded Ranbir Singh and on dying issueless in 1925 was followed by his nephew Maharaja Hari Singh. The latter on being forced to leave the State in 1952 was followed by his son Karan Singh whose official designation is the Sadar-i-Riyasat—the Head of State—elected by the State Assembly for a five-year term.

The Dogra rule in Kashmir was a despotic and tyrannical rule. All public offices and posts in the Army were reserved for the Dogras. Muslims were discriminated against in law. A Hindu on conversion to Islam would lose all inherited property but not so a Muslim on conversion to Hinduism. Cow-slaughter was a Capital offence till fifteen years ago and even today it is punishable with imprisonment upto three years. All land belonged to the Maharaja and the taxation was extremely heavy. As early as 1848 the British had to intervene in the affairs of the State although somewhat reluctantly when the Governor-General rebuked the Maharaja and advised him to reform his ways. The archives of the States Department of the Government of India are full of despatches about the Dogra misrule and repression in the State. The intervention by the British, however, made little change in the deplorable plight of the people.

UNEMPLOYMENT among the educated Muslims, particularly with the avenues of Government employment practically closed to them, provided the basis of political agitation in modern Kashmir. A memorandum on the subject was submitted by some moderate Muslims in 1929. They were privately given to understand by the authorities that fifty per cent vacancies in Government services would be reserved for the Muslims. This was, however, never done.

No freedom of association being allowed under the law, a reading room party was formed in Kashmir in 1930. Informal groups sprang up in Jammu also. Sheikh Mohammed Abdullah a native of Soura near Srinagar and an M.Sc., of Aligarh University, who at that time was just 25 and a teacher in a school, was among the principal organizers of the party in Srinagar and Ghulam Abbas was behind the formation of groups in Jammu.

Ahrars, a nationalist Party in the neighbouring Province of Punjab, contributed a great deal to the political awakening in the State by organiznig a publicity campaign against the Maharaja in the Punjab Press and distributing large number of copies in the State. The civil disobedience movement then in progress in India also stirred the imagination of the repressed people. As no public agitation was permitted the Muslims, stirred by the Press campaign depicting their plight, utilized post-prayer meetings in mosques for ventilation of their grievances, and the State's Political Minister Mr. G. E. C. Wakefield, sensing the storm in the offing, tried to pacify the rising popular feeling by inviting the Muslims to meet him in deputation and submit their concrete grievances in the form of a memorandum. That set in motion a chain of events culminating in a powerful and valiant struggle of the people of Kashmir for their political, social and economic rights.

On June 21, 1931, at a meeting held at Srinagar in Khanqa-i-Mualla the Muslims of Kashmir elected their representatives, Sheikh Abdullah among

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them, for the proposed deputation. Muslims of Jammu had already elected their representatives including Abbas. A virulent attack on the Hindu administration urging its elimination by one Abdul Qadir, a Muslim butler of a European, at the end of the meeting set the ball rolling for the political conflagration of 1931. Qadir was arrested the next day and July 13,1931 fixed for his trial inside Srinagar Central Jail.

A mammoth crowd stormed the gates of the Central Jail on July 13, and forced their way into the open courtyard. The District Magistrate Srinagar, without any attempt to pacify the crowd or explain to them that they violated any law, ordered the arrest of the ring-leaders. That infuriated the mob. They shouted slogans, threw stones at the police, cut telephone wires and even attempted to set aflame the police lines attached to the jail. The District Magistrate ordered the police to open fire. Ten persons were officially stated to have been killed that day. On July 26, 1931, however, it was found that the actual death toll stood at 21 with several wounded. The firing and deaths further enraged the mob and they started looting houses and shops of the Hindus. Three Kashmiri Pandits were assaulted and killed. Over 300 persons were arrested but 217 of them had to be discharged for want of evidence. The authorities arrested all the leaders chosen by the Muslims of Jammu and Kashmir for the proposed delegation. But that did not improve matters much and all of them were released by the new Prime Minister, Hari Krishan Kaul, by the end of July. Mr. Wakefield was dismissed by the ruler for his inability to control the situation.

Trouble dogged the steps of the new Prime Minister also. On September 24, 1931,the Administration arrested Sheikh Abdullah and a few other Muslim leaders for delivering objectionable speeches. A State-wide upheavel, unprecedented in the history of Kashmir, ensued. Martial law was proclaimed throughout the State. Three people were shot dead in Srinagar and 21 in Anantnag. In Mirpur, where the agitation took on violent form against the Hindu landlords and money-lenders, several villages were razed to ground. The ruler had ultimately to yield. On October 5, 1931, he issued a proclamation withdrawing martial law and assuring the people that "if any section of my subjects desires to submit any reasonable request they will receive my sympathetic consideration." All leaders were released.

As a result of the new proclamation Muslims, Hindus and Sikhs all submitted separate memorandums listing their grievances and demands. All demanded constitutional reforms. Muslims wanted 70 per cent reservation in the services as also in the State Assembly which, they demanded, should be elected on the basis of adult franchise. The Maharaja on November 12, set up a commission headed by Mr.—later Sir—Bertrand James Glancy to look into the matter. The commission submitted its report in 1932 recommending the formation of an elected legislature, increased facilities for education and employment for the Muslims, abolition of "begar" and transfer of proprietory rights to the tenants of agricultural lands. The first elections to the State Assembly were accordingly ordered in 1934 but with a limited franchise. The Muslim Conference which had led another agitation before the elections, won 16 out of 21 elected seats.

The All Jammu and Kashmir Muslim Conference, the first mass political party in the State, was formed at Srinagar in 1932 and its first

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session was held in the city on October 15, 16, and 17, 1932. On June 28, 1938, its Working Committee with a view to secularize State politics recommended to its General Council to alter its name and Constitution so as to enable all sections of State people to join it. On August 29, 1938, several prominent Hindus and Muslims issued a manifesto called the "National Demand". The Administration, headed by Prime Minister N. Gopalaswamy Ayyangar—later Indian Cabinet Minister and India's first spokesman in the Security Council on Kashmir—which was illdisposed to the new move, ordered the arrest of the leaders including Abdullah, Abbas, Afzal Beg and Prem Nath Bazaz, a Kashmiri Pandit who had urged Muslim leaders to secularise Kashmir politics. The authorities had to face a new turmoil as a result of these arrests and the leaders were released in February 1939. The Muslim Conference met in special session at Srinagar on June 10, 1939, with 176 delegates from all districts of the State attending and accepted the Working Committee's recommendation. By a resolution adopted on June 11, 1939, the Conference changed the name of the organisation to the Jammu and Kashmir National Conference and threw open its membership to all irrespective of caste and religion. The decision was supported by all in the open session including Ghulam Abbas and Allah Rakha Saghar, the Jammu leaders. It was, however, agreed that the Conference would align itself neither with the Muslim League nor the Indian National Congress.

But with the passage of time the Conference moved closer and closer to the Congress and adopted resolutions supporting the latter's opposition to the war-effort as also a resolution demanding recognition for Hindustani written in Devnagari or the Persian script in the State. Jawaharlal Nehru was invited to the State and accorded a rousing reception by the Conference. That led to a rift between Abdullah and Abbas in January 1940 when the latter resigned from the Conference mainly in protest against the language resolution adopted on December 28, 1939. With Abbas several other Jammu Muslims left the Conference. They revived the Muslim Conference early in 1941. In the Valley also they gained a few adherents including Mir Waiz Yusuf Shah. From that time onwards Muslim Conference and the National Conference were respectively regarded in the outside world as counterparts of the Muslim League and the Congress. Quaid-E-Azam Jinnah presided over the Muslim Conference session in Srinagar in 1943.

The Muslim Conference which captured 16 out of 21 seats in the Assembly in 1934 elections repeated its success in 1936. In fresh elections ordered in 1938, following *en bloc* resignation of its members from the Assembly, the Conference captured 20 out of 21 seats. Mirza Mohd Afzal Beg, a lieutenant of Sheikh Abdullah, joined the State Cabinet in 1944 but withdrew from it in 1946 to clear the way for the "Quit Kashmir" movement. The National Conference boycotted eletions held in 1947 in which the Muslim Conference captured 16 out of 21 seats. The Quit Kashmir movement was launched by Abdullah on May 20, 1946 with the demand that on the transfer of power in India the sovereignty must revert to the people and not to the State ruler, a demand which he had submitted in a memorandum to the Cabinet Mission and with which Nehru was also stated to be in agreement in principle but which was ignored by the Mission. Over 300 National Conference workers were arrested by the police in a midnight swoop on their houses on the night of May

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20-21. Abdullah was sentenced to a long term of imprisonment. Bakshi and Sadiq who were able to escape to Lahore carried on the agitation from there, the former in alliance with the Congress-Socialists and the latter with the Communists. Both the Congress-Socialists and Communist leaders toured the State in support of the movement.

On August 15,1947, the State of Jammu and Kashmir became an independent State, the Maharaja having declined to accede either to India or to Pakistan despite the pleas for decision either-way made by both pro-India and pro-Pakistan elements in the State and outside. The situation within the State at the time was, however, far from happy. The National Conference leaders stood imprisoned. A no-tax agitation started by Muslims in Poonch assumed militant form when the Maharaja ordered his troops there to crush the agitation. The local Muslim population, many of whom had served with the Indian Army, inflicted a crushing defeat on the State forces at Bagh on August 25, 1947 with arms secured by them from their friends in Pakistan where they had evacuated their women folk and children. Large-scale influx of Hindu and Sikhs refugees from Pakistan spread the communal riots to Jammu Province as well causing death of many and fleeing of thousands from their homes to areas now in Azad Kashmir and in Pakistan. Then came the bands of armed tribesmen forcing the State troops to retreat and causing Maharaja's authority to disappear from a major part of the State. He sought India's help to repel the 'raiders'. India stipulated his acceding first to the Indian Union before the Army could be sent to his succour. Sheikh Abdullah had, meanwhile, been released on Sept. 29, 1947 and was staying as the guest of Prime Minister Nehru in Delhi when Maharaja sent in his Instrument of Accession duly signed on October 26, 1947. The Government of India accepted the accession provisionally on the condition that when law and order were restored the issue of accession will be decided by a reference to the people. Sheikh Abdullah backed the acceptance of the accession of the State on this specific condition which was in consistence with Government of India's policy that where the ruler of a State belonged to a community other than the majority community of the State the issue of accession will be decided by a reference to the wishes of the people. Junagadh was the first case where this policy was applied. Although the ruler of the State acceded to Pakistan and the Government of Pakistan accepted the accession, India refused to recognize the fact and marched in its troops at the invitation of a Provisional Government in revolt against the Nawab who flew to Pakistan and later conducted a plebiscite in the State which with its overwhelmingly majority-Hindu population voted accordingly for India. Sheikh Abdullah was invited by the Maharaja to head the Emergency Administration which was replaced by a regular cabinet in March 1948 with Sheikh Abdullah as the Prime Minister. The course of these events and views of the two Governments thereon is covered in detail in the documents included in the ensuing chapters. On August 9,1953 Sheikh Abdullah was dismissed by Sadar-i-Riyasat and detained. He continued in detention till January 8, 1958 but had a brief spell of freedom only thereafter when he was rearrested on April 28. In May the State Government instituted a case against Mirza Mohd Afzal Beg and several others—Sheikh Abdullah was joined in October—which was known as the Kashmir conspiracy Case, alleging collusion between the accused and Pakistan to overthrow the State Government by force to

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secure its annexation by Pakistan. The case was withdrawn on April 8,1964 and all accused discharged.

The State witnessed two major upheavels between 1953 and 1964. The arrest of Sheikh Abdullah resulted in wide-spread agitation which the Administration crushed by large-scale arrests, shooting and lathi-charges. Officially nearly a hundred people are conceded to have lost their life as a result of the Police-firing while unofficial figure is several times higher. Bakshi Ghulam Mohd. who succedeed as the Prime Minister and continued as such till the end of October 1963 resorted to worst forms of repression, nepotism and corruption to keep himself in power. In 1957 his associate Mr. G.M. Sadiq, the present Prime Minister, broke away from the official group to form the Democratic National Conference and denounced the administration on the above charges. In 1961, however, he returned to the National Conference and soon rejoined the cabinet. On Dec. 27, 1964, the holy relic of Prophet's hair disappeared from the Hazratbal shrine. This electrified the people into demonstrations the like of which had never been witnessed before. Life throughout the Valley came to a standstill. People paraded the streets in subzero temperatures singing songs against Bakshi brothers who went into hiding and whose property was attacked and two cinemas belonging to them destroyed. The popular belief was that some of them were involved in the theft with a view to discredit the new Prime Minister to pave way for their ultimate return to power. The agitaton was conducted by Action Commitee headed by a 19-year old nephew of Mir WaizYusuf Shah, Maulvi Mohd. Farooq. Maulana Mohd Saeed Masuodi was, however, the main guiding spirit of the agitation. The recovery of the hair ten days later, it mysteriously reappeared in the shrine, restored normalcy in the State. The popular resentment against Bakshi brothers, however, made their presence in the State difficult and completely exploded the myth of their popularity among the masses. The Action Committee demanded withdrawal of all political cases in Kashmir. The unstinted support to the demand expressed by the people made the Government of India have second thoughts on the issue. Shamasuddin was consequently replaced by Mr. G. M. Sadiq towards the end of February 1964. A month later he announced the withdrawal of all political cases in Kashmir and introduced a policy of relaxation, with considerable measure of freedom of speech, Assembly and the Press.

The first Azad Kashmir Government came into being on October 3, 1947, at a meeting held in Rawalpindi, with Anwar, supposedly the assumed name of Ghulam Nabi Gilkar, as its first President and Sardar Mohd, Ibrahim as its first Prime Minister. Ghulam Nabi Gilkar—one of the architects of the National Conference in early days—is said to have proceeded to Srinagar soon after the formation of the new Government with a warrant to arrest the Maharaja and was detained there himself. The Srinagar authorities, however, little knew that he was the President of Azad Kashmir. A new Government of Azad Kashmir with Sardar Ibrahim Khan as President was then proclaimed on October 24, 1947. The present President of Azad Kashmir is Khan Abdul Hamid Khan.

Important political parties in the State are the Jammu and Kashmir National Conference, the Jammu and Kashmir Plebiscite Front, the Kashmir Political Conference, the Democratic National Conference and

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the Jan Sangh, formerly Praja Parishad. The Samyukt Socialist Party of India also has a branch in the State but it practically counts for nothing. The National Conference with G. M. Sadiq as its President, is the ruling party in the State. From Jan. 26, 1965 it has turned into Kashmir State branch of the ruling Indian National Congress. The Plebiscite Front was founded by Mirza Afzal Beg on Aug. 9, 1955, with himself as the President and the Political Conference was founded by Ghulam Mohy-ud-din Qarra, a Royist by creed and a former lieutenant of Sh. Abdullah, in Srinagar on June 19, 1953. The organization advocated accession to Pakistan. The Plebiscite Front advocates plebiscite to enable the people to take a decision on the issue of accession. The Democratic National Conference founded by Ghulam Mohd. Sadiq in 1957 is now associated with the Communist Party. So far it has opposed plebiscite and considered the State's accession to India as complete and final. The Jan Sangh, confined to Jammu province, has Pandit Prem Nath Dogra, as its President. The Plebiscite Front which claims a membership of 700,000 is the most well-organized and the biggest opposition party in the State.

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Population statistics of Jammu & Kashmir State according to the Census Report of 1941

	District or Province	Area (Square miles)	Total Population	Muslisms	Non-Muslims
1	Jammu & Kashmir State	84,471	4,021,616	3,101,247	920,369
2	Jammu Province	12,378	1,981,433	1,215,676	765,757
	(a) Jammu District	1,147	431,362	170,789	260,573
	(b) Kathua District	1,023	177,672	45,214	132,453
	(c) Udhampur District	5,070	294,217	128,327	165,890
	(d) Reasi District	1,789	257,903	175,539	82,364
	(e) Mirpur District	1,627	386,655	310,880	75,775
	(f) Chenani Jagir	95	11,796	2,205	9,591
	(g) Poonch Jagir	1,627	421,828	382,722	39,106
3	Kashmir Province	8,539	1,728,705	1,615,478	113,227
	(a) Baramulla District	3,317	612,428	590,936	21,492
	(b) Anant Nag District	2,814	851,606	778,684	72,922
	(c) Muzzaffarbad ,,	2,408	264,671	245,858	18,813
4	Frontier Districts	63,554	311,478	270,093	41,385
	(a) Ladakh District	45,762	195,431	154,492	40,939
	(b) Astore District	1,632	17,026	16,878	148
	(c) Gilgit (Leased area)	1,480	22,495	22,296	199
	(d) Gilgit Agency	14,680	76,526	76,427	99

District-wise population of Indian Part of Jammu & Kashmir According to Census Report of 1961.

(Figures in bracket indicate the figure for 1941)

	Total	Muslim	Hindus & Others	Area sq. m.
Jammu District :	516,932 (431,262)	51,847 (170,789)	465,085 (260,573)	1248.6 (1147)

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Kashmir—Population Chart (1961 Census)

	Total	Muslim	Hindus & Others	Areas
Kathu District :	207,430 (177,672)	27,005 (45,214)	180,425 (132,458)	1023 (1023)
Udhampur District :	254,061 (294,217)	86,059 (128,327)	168,002 (165,890)	1731.6 (5070)
Poonch District :	326,061 (412,769)	259,082 (323,029)	66,979 (89,740)	1680.1 (1627)
Doda District :	268,403	174,499	93,904	4380.2
Anantnag :	654,368 (851,606)	624,373 (778,684)	29,995 (72,922)	2096.9 (2814)
Srinagar District :	640,411	580,538	59,873	1205
Baramulla District :	604,659 (612,428)	588,389 (590,936)	16,270 (21,492)	2536.0 (3317)
Ladakh District	88,651	40,275	48,376	37,753
Ladakh Tehsil in 1941	(35,952)	(4086)	(31,866)	(45,753)
Kargil Tehsil in 1941	(57,686)	(49,410)	(8,276)	

Note :—Since August 1947 the District of Udhampur has been split into two parts, the predominantly Muslim Tehsils of Kishtwar and Ramban being joined with Bahadarwah Tehsil to form the new District of Doda in which Muslims are in a majority. Srinagar is created a new District in Kashmir Valley.

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Section II

From Princedom to Independence

On March 15, 1846 at an investiture ceremony held at Amritsar at which he described himself "a Zurkhareed"* of the British, Raja Gulab Singh of Jammu was formally elevated to the status of a Maharaja. The next day was concluded between him and the British a Treaty, known in history as the Treaty of Amritsar, which put him in independent possession of the territory forming the modern State of Jammu and Kashmir subject to the overall supremacy of the British Government.

The Treaty of Amritsar dated, March 16, 1846, was a sequel to the Treaty of Lahore, dated March 9, 1846, which concluded the first war between the British and the Sikhs. The Sikh Durbar had, under the provisions of Article 3 of the Treaty of Lahore, been made to cede to the British the territory lying between Beas and Sutlej. In addition, as an equivalent for one crore of rupees of the one and half crores of rupees demanded as war indemnity which they were unable to pay, the Sikhs were made to cede to the British, for ever, territory in the hills lying between Ravi and Indus including the Provinces of Kashmir and Hazara. The Treaty, vide Article 12, also enjoined on the Sikhs to recognize, "in consideration of the services rendered by Raja Gulab Singh of Jammu to the Lahore State towards the procurement of relations of amity between the British and the Sikhs," the independent sovereignty of the Raja in such territories as may be handed over to him by separate arrangement. The Treaty of Amritsar constituted this separate arrangement, and Maharaja Gulab Singh was made to pay to the British the sum of Rs 75,00,000 in consideration of the territories transferred to him under this Treaty (Article 3 of Treaty of Amritsar).

The Treaty of Amritsar, which together with the Treaty of Lahore governed constitutional relations between the State of Jammu and Kashmir and the British Government, has been subjected to severe criticism both by Kashmiris and others. "This arrangement", remarks Joseph Davey Cunningham in his book "History of the Sikhs" "was a dexterous one, if reference be only had to the policy of reducing the power of the Sikhs ; but the transaction scarcely seems worthy of the British name and greatness and the objections become stronger when it is considered that Gulab Singh had agreed to pay sixty-eight lacs of Rupees as a fine to his paramount authority before the war broke out, and the custom of the East as well as the West requires the feudatory to aid his lord in foreign wars and domestic strife. Gulab Singh ought thus to have paid the deficient million of money as a Lahore subject, instead of being put in possession of Lahore Provinces as an independent Prince"* This criticism is further reinforced by the fact that "services" for which Gulab Singh demanded a reward related to his

*"Zurkhareed" : Gold-bought slave. "History of the Sikhs." Page 289

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having stressed on the Sikhs the necessity of early peace after the battle of Aliwal (January, 28, 1846) and having exposed the Sikh infantry to British guns by advising them that the best way to defeat the British was "to leave the sturdy infantry entrenched and watched and sweep the open country with cavalry to the gates of Delhi !"**

According to the Treaty of Amritsar, Maharaja Gulab Singh was assured complete sovereignty in internal affairs of the State, and British aid in case of external aggression. This position was maintained when the British Crown took over control of the Government from the East India Company in 1858. The Queen in a Proclamation announced to the native Princes that "all treaties and engagements made with them by or under the authority of the East India Company are by us accepted, and will be scrupulously maitained, and we look for the like observance on their part." While the Treaty of Amritsar, itself, made the State ruler recognise the supremacy of the British, their paramountcy over the State as over all other states in India, was formally established through the Act of 1876 by which the Queen assumed the title of Empress of India, thereby becoming the suzerain of all Indian states which became her vassals in turn. That entitled the British to intervene in the internal affairs of the State also, as, to quote Lord Reading "the internal, no less than external, security which the ruling princes enjoy is due ultimately to the protecting power of the British Government, and where Imperial interests are concerned, or the general welfare of the people of the State is seriously and grievously affected by the action of the Government, it is with the paramount power that the ultimate responsibility of taking remedial action, if necessary, must lie".

"The effect of the Treaty of Amritsar was to confirm Gulab Singh in what he already possessed and transfer to him Province of Kashmir with its newly acquired authority over Gilgit although a literal interpretation of the first article of the Treaty might perhaps have excluded Gilgit" observes C.N. Aitchison in his preface in "A collection of Treaties, Engagements and Sanads' published under the authority of the Political Department of the Government of India in 1931. The developments in Kashmir from that point onwards are recounted by Aitchison in the same book as follows :

'Gulab Singh had some difficulty in obtaining actual possession of the Province of Kashmir. The Governor appointed by the Lahore Durbar, Sheikh Imamuddin made, for a time, successful resistance and it was not till the end of 1846 that Gulab Singh was established in Kashmir with the aid of both British troops and those of Lahore Durbar. Thus Gulab Singh owed not only his title to Kashmir but his actual possession of it wholly to the support of British power.

"Nor was his occupation of Hazara effected without opposition and it soon became apparent that he would be unable to control the turbulent tribes in the hills of Hazara. Eventually in 1847, the Governor-General's Agent after some difficulty negotiated an agreement on the basis of exchange of territories between the Lahore and Kashmir Durbars by which lands in the neighbourhood of Jammu were left with Gulab Singh while most of the hill country to the West of Jhelum went to Lahore State. Hazara was thus transferred to Lahore and Jhelum became the Western

*"History of the Sikhs" Page 288. **ibid. P. 287—288

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boundary of the State of Kashmir roughly speaking between the towns of Jhelum and Muzaffarabad.

"In 1846 and 1847 two Commissions were appointed to demarcate the Eastern boundary. They were to arrange first a boundary between British territory (now the districts of Lahore and Spiti) on the South and the Kashmir territory of Ladakh on the North and then a boundary between Ladakh on the West and Chinese Tibet on the East. The first Commission reported in May 1847.

"As regards Ladakh-Tibet boundary, the Commissioners, owing to Imamuddin's rebellion were unable to reach the Tibetan border.

"On the appointment of second Commission steps were taken to secure the co-operation of Chinese and Kashmir officials but no Chinese delegate appeared and the demarcation of boundary had to be abandoned.

"The Northern as well as Eastern boundary of Kashmir State is still undefined. On the North-West also from Hunza Southwards along the frontier of Yasin, Darels Tangir and Chilas to Kaghan no boundary has been officially laid down.

"On the South the only portion of British and Kashmir boundary which has been regularly demarcated is that which lies between the rivers Jhelum and Ravi from a point above Dulial to Madhopur, settlement being effected by Captain Abbot. This was affected by Hazara exchange giving to Kashmir Talukas of Kathua and Suchetgarh with part of Minawar. In 1847 the Government of India took over from Gulab Singh the districts of Sujanpur, parts of Pathankot and certain lands between Chaki and Beas rivers as a set off against charges on account of the maintenance of some hill Chiefs who had removed from Kashmir into British territory.

"On the South East the Southward course of the River Ravi is the boundary for most of the border between Madhopur and a point 13 miles West by North of the town of Chamba.

"In 1846 there arose a question whether the Treaty of Amritsar intended to make over the whole of Chamba, Trans and Cis Ravi to Kashmir. Gulab Singh held district of Lakhanpur which belonged to British under Treaty of Lahore. Chamba Chief claimed district of Bhadarwah which had been granted to him by Ranjit Singh but which was then held by Kashmir to whom it undoubtedly stood transferred under the Treaty of Amritsar. The Raja of Chamba had been a tributary to Sikh Durbar and objected to occupying that position under Gulab Singh. These difficulties were settled by Col. Lawrence. He made an arrangement by which Kashmir retained Bhadarwah and acquired Lakhanpur and Chandgraon while Chamba on both sides of Ravi became independent of Kashmir, the Raja transferring his allegiance to the British Government. (Vide letter No. 180 Dated 22-11-1847 from the Agent to the Governor-General North West Frontier and Resident at Lahore.]

"After the Treaty of Amritsar the intercourse of British Government with Kashmir was for sometime of ordinary character though the conduct of Gulab Singh in the last struggle of 1849 excited grave suspicions. He died in 1857 and was succeeded by his son Ranbir Singh. Both Gulab Singh and Ranbir Singh rendered important services to the British in the Mutiny of 1857. In 1862 the right of adoption was guaranteed to Maharaja

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Ranbir Singh. In the event of his death without natural issue and without adopting an heir the British Government would recognize the succession of a collateral relative descended from the common ancestor of the family Throv (Dhrub Deo) subject to the condition that a nazrana of a year's revenue of the State would be paid. In 1877 on the occasion of Delhi Durbar the hereditary title of Indar Mahindar Bhadur Sipari Saltanat was conferred upon the Maharaja. An officer on special duty in Kashmir under Government of India was appointed the same year, relations till then having been conducted through the Punjab Government.

"Ranbir Singh died in 1885 and was succeeded by his eldest son Partap Singh. A Resident was appointed to bring about administrative reforms which were urgently needed. In 1889 Partap Singh voluntarily resigned all active participation in the Government of the State whose administration since his accession had been a source of anxiety to the Government of India. The resignation was accepted, and administration reorganized under a Council comprising Maharaja's two brothers, Ram Singh and Amar Singh, and certain selected officials from British service. They were to take no important step without consulting Resident although they were to exercise full powers. In Nov. 1891 Maharaja was restored at his own request to a portion of his powers. The Council which had worked satisfactorily was continued with Maharaja as President who agreed to be guided by the Resident's advice. In 1905 Maharaja was entrusted with a greater measure of administrative responsibility, the State Council was abolished and powers transferred to Maharaja subject to conditions which left the practical control of Resident unimpaired.

"In March 1921 full powers of administration were restored to Maharaja Partap Singh who in 1922 instituted an Executive Council consisting of himself as President, his nephew Raja Hari Singh as Senior and Foreign Minister of Council and three other members. In 1924 the number of members was raised to five.

"Partap Singh died on September 23, 1925 and was succeeded by his nephew Hari Singh

"Maharaja Hari Singh abolished the post of Senior and Foreign member of the Council and assumed Commander-in-chiefship of State Army.

"From 1877 to 1881 a British officer was stationed as Political Agent at Gilgit, lying North of Kashmir on a tributary of upper Indus and separated from the main Valley by the river Indus and high and difficult mountain ranges. In 1881 the Political Agent was withdrawn but in 1889 the Agency was re-established, garrison strengthened and placed on a proper footing. In 1891 a combined force of British and Kashmir troops occupied Hunza and Nagar after sharp fighting.

"In 1913 a Gilgit Corps of Scouts was raised under a British officer to guard passes between Chitral and Kashmir. Gilgit Agency comprised of (1) Gilgit Wazarat including Tehsil of Gilgit including Bunji, and the Niabat of Astor. (2) The State of Hunza and Nagar. (3) Shinaki republics of Chilas Distt. in Indus valley. (4) Governorship of Punial (5) of Yasin (6) of Koh Ghizar and (7) of Ishkoman. Gilgit Wazarat was administered by Kashmir State officials. Hunza and Nagar enjoyed complete internal autonomy and the other areas in varying degrees. In matters of

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common interest they were subject to the control of Political Agent. They all acknowledged the Maharaja of Jammu and Kashmir as their suzerain and paid him some form of tribute.

Hunza and Nagar are two small States inhabited by people of one stock speaking a common language 'Burushaski—a non-Aryan tongue of unknown affinities—but the former being followers of Agha Khan and the latter being Shias which accounted for some ill will between the two in the past.

"In 1891 there was a revolt in the two small States which was quelled by the British troops. The ruler of Hunza, Safdar Ali Khan fled to Chinese Turkestan where he was detained by the authorities. His half-brother Mohd. Nazim Khan was installed as chief of Hunza in 1892 in the presence of two Chinese envoys. China acknowledged the right of people of Hunza to cultivate the tract of Raskam and in 1899 a small contingent started cultivating it but later they were ejected from there. In 1914 however the Hunza contingent restarted cultivation of the tract and no interference from the other side was reported. In Tashdumbash Hunza Chief collected certain dues with the consent and assistance of the Chinese".*

On May 22, 1946, the British Cabinet Mission, announced in New Delhi its plan relating to the Indian States after the transfer of power. This plan is known as the "Cabinet Mission Memorandum on States' Treaties and Paramountcy". According to the Memorandum, the provisions of which were accepted by both the princes and the Indian political leaders, the British paramountcy over the Indian States was to lapse with the establishment of a fully self-governing or independent government or governments in India and all the rights surrendered by the Indian States to the paramount power were to revert to them. This position was maintained in the British Government's Statement of June 3, 1947, announcing their plan for the transfer of power in India to two Governments, "in accordance with the will of Indian people" and also in the Indian Independence Act, passed by the British Parliament on July 17, 1947, which incorporated the various provisions of the Statement of June 3, 1947.

In a speech at a special meeting of the Chamber of Princes in New Delhi on July 25, 1947, the Crown representative, Lord Mountbatten, advised the States to choose which of the two nations, India or Pakistan, to be established by the Indian Independence Act on August 15, 1947, they would like to accede to. Defence, External Affairs, and Communications were to be the only subjects they were required to transfer to the nation they would accede to. They could also stay independent if they so chose, but Lord Mountbatten pointed out to them the difficulties confronting such a choice. He further stressed the need for the princes keeping in view the welfare of the people and geographical considerations while reaching a decision on the issue of accession. "You cannot run away from the Dominion Government which is your neighbour any more than you can run away from the subjects for whose welfare you are responsible", said he.

The Indian Independence Act provided for continuance of existing arrangements between the States and the neighbouring provinces and the Dominion Government through stand-still agreements to give the rulers time for considered decision on the issue of accession. The act also empowered the Governors-General of the two Dominions to adapt as necessary the provisions of the Government of India Act 1935, which was to be the

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Constitution Act of the two States till their new Constitutions were framed. Both India and Pakistan adapted section 6 of the Government of India Act 1935, to provide for the accession of States. The Indian Independence Act also laid down that nothing stated therein "should be construed as preventing an area included in either Dominion from leaving that Dominion with its consent" or preventing an outside area from being included in that Dominion with its consent.

Thus on August 15, 1947, the State of Jammu and Kashmir became in law an independent State. On August 12, 1947, it had telegraphically requested India and Pakistan for stand-still agreements. Pakistan agreed vide its telegram dated August 15, 1947, but India asked the State to send representatives to Delhi for negotiations. No standstill agreement between India and Kashmir was ever concluded.

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Treaty of Lahore, 1846.

Treaty between the British Government and the State of Lahore, concluded at Lahore on March 9, 1846.

Whereas the treaty of amity and concord, which was concluded between the British Government and the late Maharaja Ranjit Singh, the ruler of Lahore in 1809, was broken by the unprovoked aggression on the British provinces of the Sikh Army, in December last: And whereas, on that occasion, by the proclamation dated the 13th December, the territories then in the occupation of the Maharaja of Lahore, on the left of British bank of the river Sutlej, were confiscated and annexed to the British provinces; and since that time, hostile operations have been prosecuted by the two Governments, the one against the other, which have resulted in the occupation of Lahore by the British troops: And whereas it has been determined that upon certain conditions, peace shall be re-established between the two Governments, the following treaty of peace between the Honourable English East India Company, and Maharaja Dalip Singh Bahadur, and his childern, heirs and successors, has been concluded, on the part of the Honourable Company, by Frederick Currie, Esq; and Brevet-Major Henry Montgomery Lawrence, by virtue of full powers to that effect vested in them by the Right Honourable Sir Henry Hardinge, G.C.B., one of Her Brittanic Majesty's most Honourable Privy Council, Governor-General appointed by the Honourable Company to direct and control all their affairs in the East-Indies, and on the part of his Highness the Maharaja, Dalip Singh, by Bhai Ram Singh, Raja Lal Singh, Sardar Tej Singh, Sardar Chattar Singh Attariwala, Sardar Ranjor Singh Majithia, Diwan Dina Nath, and Fakir Nur-ud-din vested with full powers and authority on the part of his Highness

Article 1. There shall be perpetual peace and friendship between the British Government, on the one part, and Maharaja Dalip Singh, his heirs and successors on the other.

Article 2. The Maharaja of Lahore renounces for himself, his heirs and successors all claim to or connection with, the territories lying to the south of the river Sutlej, and engages never to have any concern with those territories or the inhabitants thereof.

Article 3. The Maharaja cedes to the Honourable company in perpetual sovereignty, all his forts, territories, and rights in the Doab and country, hill and plain, situate between the rivers Beas and Sutlej.

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Article 4. The British Government having demanded from the Lahore State, an indemnification for the expenses of the war, in addition to the cession of terriory described in Article 3, payment of a one and a half crores of rupees; and the Lahore Government being unable to pay the whole of this sum at this time, or to give security satisfactory to the British Government for its eventual payment; the Maharaja cedes to the Honourable company, in perpetual sovereignty, as equivalent for one crore of rupees all his forts, territories, rights, and interests in the hill countries which are situate between the rivers Beas and Indus, including the Provinces of Kashmir and Hazara.

Article 5. The Maharaja will pay to the British Government the sum of fifty lacs of rupees, on or before the ratification of this treaty.

Article 6. The Maharaja engages to disband the mutinous troops of the Lahore army, taking from them their arms; and his Highness agrees to reorganize the regular, or Ain, regiments of infantry, upon the system, and according to the regulations as to pay and allowances, observed in the time of the late Maharaja Ranjit Singh. The Maharaja further engages to pay up all arrears to the soldiers that are discharged under the provisions of this article.

Article 7. The regular army of Lahore State shall hence-forth be limited to 25 battalions of infantry, consisting of 800 bayonets each with 12,000 cavalry : this number at no time to be exceeded without the concurrence of the British Government. Should it be necessary at any time for any special cause, that this force should be increased, the cause shall be fully explained to the British Government ; and when the special necessity shall have passed, the regular troops shall be again reduced to the standard specified in the former clause of this article.

Article 8. The Maharaja will surrender to the British Government all the guns, thirty-six in number, which have been pointed against the British troops, and which having been placed on right bank of the river Sutlej, were not captured at the Battle of Sobraon.

Article 9. The control of the rivers Beas and Sutlej, with the continuation of the latter river, commonly called the Ghara and Panjnad, to the confluence of the Indus from Mithankot, and the control of the Indus from Mithankot to the borders of Baluchistan, shall, in respect to tolls and ferries, rest with the British Government. The provisions of this article shall not interfere with the passage of boats belonging to the Lahore Government on the said rivers, for the purpose of traffic or the conveyance of passengers up and down their course. Regarding the ferries between the countries respectively, at the several ghats of the said rivers, it is agreed that the British Government after defraying of the all expenses of management and establishments, shall account to the Lahore Government for one half of the net profits of the ferry collections. The provisions of this article have no reference to the ferries on that part of the river Sutlej which forms the boundary of Bahawalpur and Lahore respectively.

Article 10. If the British Government should, at any time, desire to pass troops through the territories of his Highness the Maharaja, for the protection of the British territories, or those of their allies, the British troops shall, on such special occasions, due notice being given, be allowed to pass through the Lahore territories. In such case the officers of the Lahore State will afford facilities in providing supplies and boats for the passage of rivers ; and the British Government will pay the full price of such

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provisions and boats, and will make fair compensation for all private property that may be endamaged. The British Government will, moreover, observe all due consideration to the religious feelings of the inhabitants of those tracts through which the army may pass.

Article 11. The Maharaja engages never to take, or retain in his service, any British subject, nor the subject of any European or American State, without the consent of the British Government.

Article 12. In consideration of the services rendered by Raja Gulab Singh of Jammu to the Lahore State, towards procuring the restoration of relations of amity between the Lahore and British Governments, the Maharaja hereby agrees to recognize the independent sovereignty of Raja Gulab Singh, in such territories and districts in the hills as may be made over to the Raja Gulab Singh by separate agreement between himself and the British Government, with the dependencies thereof, which may have been in the Raja's possession since the time of the late Maharaja Kharak Singh : and the British Government in consideration of the good conduct of Raja Gulab Singh, also agrees to recognize his independence in such territories, and to admit him to the privileges of a separate treaty with the British Government.

Article 13. In the event of any dispute or difference arising between the Lahore State and Raja Gulab Singh, the same shall be referred to the arbitration of the British Government ; and by its decision the Maharaja engages to abide.

Article 14. The limits of the Lahore territories shall not be, at any time, changed without the concurrence of the British Government.

Article 15. The British Government will not exercise any interference in the internal administration of the Lahore State ; but in all cases or questions which may be referred to the British Government, the Governor-General will give the aid of his advice and good offices for the furtherance of the interests of the Lahore Government.

Article 16. The subjects of either State shall, on visiting the territories of the other, be on the footing of the subjects of the most favoured nation.

This treaty consisting of sixteen articles has been this day settled by Frederick Currie, Esq ; and Brevet-Major Henry Montgomery Lawrence, acting under the directions of the Right Honourable Sir Henry Hardinge, G. C. B., Governor-General, on the part of the British Government, and by Bhai Ram Singh, Raja Lal Singh, Sardar Tej Singh, Sardar Chattar Singh Attariwala, Sardar Ranjor Singh Majithia, Diwan Dina Nath and Fakir Nur-ud-din, on the part of Maharaja Dalip Singh ; and the said treaty has been this day ratified by the seal of the Right Honourable Sir Henry Hardinge, G. C. B., Governor-General, and by that of his Highness Maharaja Dalip Singh.

Done at Lahore this 9th day of March in the year of our Lord 1846 corresponding with the 10th day of Rabi-ul-awal 1262 Hijri and ratified the same day.

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Treaty of Amritsar, 1846.

Treaty between the British Government and Maharaja Gulab Singh concluded at Amritsar, on 16th March 1846.

Treaty between the British Government on the one part, and Maharaja Gulab Singh of Jammu on the other, concluded on the part of the British Government by Frederick Currie, Esq; and Brevet-Major Henry Montgomery Lawrence, acting under the orders of the Right Honourable Sir Henry Hardinge, G.C.B , one of Her Brittanic Majesty's most Honourable Privy Council, Governor-General, appointed by the Honourable Company to direct and control all their affairs in East Indies, and by Maharaja Gulab Singh in person.

Article 1. The British Government transfers and makes over for ever, in independent possession, to Maharaja Gulab Singh and the heirs male of his body, all the hilly or mountainous country, with its dependencies, situated to the eastward of the river Indus, and westward of the river Ravi, including Chamba and excluding Lahul, being part of the territories ceded to the British Government by the Lahore State, according to the provisions of Article 4 of the Treaty of Lahore, dated 9th March 1846.

Article 2. The eastern boundary of the tract transferred by the foregoing article to Maharaja Gulab Singh shall be laid down by commissioners appointed by the British Government and Maharaja Gulab Singh respectively for the purpose, and shall be defined in a separate engagement after survey.

Article 3. In consideration of the transfer made to him and his heirs by the provisions of the foregoing articles, Maharaja Gulab Singh will pay to the British Government the sum of seventy five lacs of rupees (Nanak Shahi) fifty lacs to be paid on the ratification of this treaty and twenty five lacs on or before the 1st of October of the current year A.D. 1846.

Article 4. The limits of the territories of Maharaja Gulab Singh shall not be, at any time, changed without the concurrence of the British Government.

Article 5. Maharaja Gulab Singh will refer to the arbitration of the British Government any disputes or questions that may arise between himself and the Government of Lahore or any other neighbouring State, and will abide by the decision of British Government.

Article 6. Maharaja Gulab Singh engages for himself and heirs to join, with the whole of his military force, the British troops, when employed within the hills or in the territories adjoining his possessions.

Article 7. Maharaja Gulab Singh engages never to take or retain, in his service any British Subject, nor the subject of any European or American State, without the consent of the British Government.

Article 8. Maharaja Gulab Singh engages to respect, in regard to the territory transferred to him, the provisions of article 5, 6, and 7 of the separate engagement between the British Gavernment and the Lahore Durbar dated 11th March 1846.

Article 9. The British Government will give its aid to Maharaja Gulab Singh in protecting his territories from external enemies.

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Artecle 10. Maharaja Gulab Singh acknowledges the supremacy of the British Government and will. in token of such supremacy, present annually to the British Government one horse, twelve perfect shawl goats of approved breed (six male and six female) and three pairs of Kashmir Shawls.

This treaty consisting of ten articles has been this day settled by Frederick Currie, Esq; and Brevet-Major Henry Montgomery Lawrence, acting under the directions of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General, on the part of the British Government, and by Maharaja Gulab Singh in person and the said treaty has been this day ratified by the seal of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General.

Done at Amritsar, this 16th day of March in the year of our Lord 1846 corresponding with 17th day of Rabi-ul-awal 1262 Hijri.

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Supplement to Treaty of Lahore, 1846.

Articles, 5, 6, and 7 of supplementary Articles of March 11, 1846, to the first Treaty of Lahore, referred to in Article 8 of the Treaty of Amritsar.

Article 5. The British Government agrees to respect the bonafide rights of those Jagirdars within the territories ceded by Article 3 and 4 of the Treaty of Lahore dated 9th instant, who were attached to the families of the late Maharaja Ranjit Singh, Kharak Singh and Sher Singh; and the British Government will maintain those Jagirdars in their bonafide possession during their lives.

Article 6. The Lahore Government shall receive the assistance of the British local authorities in recovering the arrears of revenue justly due to the Lahore Government from their Kardars and managers in the territories ceded by the provisions of Article 3 and 4 of the treaty of Lahore, to the close of the Kharif harvest of the current year viz 1902 of the Sambat Bikramajit.

Article 7. The Lahore Government shall be at liberty to remove from the forts in the territories specified in the foregoing article, all treasure and state property with the exception of guns : Should, however, the British Government desire to retain any part of the same property, they shall be at liberty to do so; paying for the same at a fair valuation; and the British officers shall give their assistance to the Lahore Government, in disposing on the spot of such part of the aforesaid property as the Lahore Government many not desire to retain.

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Extract From National Conference Memorandum Submitted by its President, Sheikh Abdullah to Cabinet Mission in 1946.

"The crux of our contention is that the sale-deed which brought Kashmir under the Dogra House confers no privileges equivalent to those claimed by States governed by the so-called Treaty rights. As such, the case of Kashmir itself stands on a unique footing, and the people of Kashmir draw the attention of the Cabinet Mission to their just claim to freedom on the withdrawal of British Power. We, the people of Kashmir, are determined to mould our destiny and we appeal to the members of the Cabinet Mission to recognize the justice and strength of our cause."

Cabinet Mission's Memorandum on States. (May 12, 1946)

Memorandum On States' Treaties And Paramountcy presented by the Cabinet Mission to his Highness the Chancellor of the Chamber of Princes on 12 May 1946.

1. Prior to the recent statement of the British Prime Minister in the House of Commons an assurance was given to the Princes that there was no intention on the part of the Crown to initiate any change in their relationship with the Crown or the rights guaranteed by their treaties and engagements without their consent. It was at the same time stated that the Princes, consent to any changes which might emerge as a result of negotiations would not unreasonably be withheld. The Chamber of Princes has since confirmed that the Indian States fully share the general desire in the country for the immediate attainment by India of her full stature. His Majesty's Government have now declared that if the Succession Government or Governments in British India desire independence, no obstacle would be placed in their way. The effect of these announcements is that all those concerned with the future of India wish to attain a position of independence within or without the British Commonwealth. The delegation have come here to assist in resolving the difficulties which stand in the way of India fulfilling this wish.

2. During the interim peroid, which must elapse before the coming into operation of a new constitutional structure under which British India will be independent or fully self-governing, paramountcy will remain in operation, But the British Government could not and will not in any circumstances transfer paramountcy to an Indian Government.

3. In the meanwhile, the Indian States are in a position to play an important part in the formulation of the new constitutional structure for India, and His Majesty's Government have been informed by the Indian States that they desire, in their own interests and in the interests of India as a whole, both to make their contribution to the framing of the structure, and to take their due place in it when it is completed. In order to facilitate this they will doubtless strengthen their position by doing everything possible to ensure that their administrations conform to the highest standard. Where adequate standards cannot be achieved within the existing resources of the States they will no doubt arrange in suitable cases to form or join administrative units large enough to enable them to be fitted in the constitutional structure. It will also strengthen the position of States during this formulative period if the various Governments which have not already done so take active steps to place themselves in close and constant touch with public opinion in their State by means of representative institutions.

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4. During the interim period it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially in the economic and financial field. Such negotiations, which will be necessary whether the States desire to participate in the new Indian constitutional structure or not, will occupy a considerable period of time, and since some of these negotiations may well be incomplete when the new structure comes into being, it will, in order to avoid administrative difficulties, be necessary to arrive at an understanding between the States and those likely to control the succession Government or Governments that for a period of time the then existing arrangements as to these matters of common concern should continue until the new agreements are completed, In this matter, the British Government and the Crown Representative will lend such assistance as they can, should it be so desired.

5. When a new fully self-governing or independent Government or Governments come into being in British India, His Majesty's Government's influence with these Governments will not be such as to enable them to carry out the obligations of paramountcy. Moreover, they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will cease to exercise the powers of paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them.

Note :—The following explanatory note was issued by the Cabinet Mission in New Delhi on the date of publication of the Memorandum (May 22, 1946).

"The Cabinet delegation desire to make it clear that the document issued today entitled 'Memorandum on States' Treaties And Paramountcy'' presented by the Cabinet delegation to His Highness the Chancellor of the Chamber of Princes, was drawn up before the Mission began its discussions with party leaders and represented the substance of what they communicated to the representatives of the States at their first interviews with the Mission. This is the explanation of the use of the words "succession Government or Governments of British India," an expression which would not of course have been used after the issue of delegation's recent statement''. (The reference here is to the Cabinet Mission Plan of May 16, 1946 which envisaged transfer of power to a single authority in British India).

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Statement of June 3, 1947

Statement containing the final decision of His Majesty's Government regarding the method of transfer of power announced on June 3, 1947.

1. On February 20th, 1947, His Majesty's Government announced their intention of transferring power in British India to Indian hands by

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June 1948. His Majesty's Government had hoped that it would be possible for the major parties to co-operate in the working out of the Cabinet Mission's Plan of May 16th, 1946 and evolve for India a Constitution acceptable to all concerned. This hope has not been fulfilled.

2. The majority of the representatives of the provinces of Madras, Bombay, the United Provinces, Bihar, Central Provinces and Berar, Assam, Orissa, and the North-West Frontier Province, and the representatives of Delhi, Ajmer,—Merwara, and Coorg have already made progress in the task of evolving a new Constitution. On the other hand, the Muslim League Party, including in it a majority of the representatives of Bengal, the Punjab, and Sind as also the representatives of British Baluchistan, have decided not to participate in the Constituent Assembly.

3. It has always been the desire of His Majesty's Government that power should be transferred in accordance with the wishes of the Indian people themselves. This task would have been greatly facilitated if there had been agreement among the Indian political parties. In the absence of such an agreement, the task of devising a method by which the wishes of the Indian people can be ascertained has devolved upon His Majesty's Government. After full consultation with political leaders in India, His Majesty's Government have decided to adopt for this purpose the plan set out below. His Majesty's Government wish to make it clear that they have no intention of attempting to frame any ultimate Constitution for India, this is a matter for the Indians themselves. Nor is there anything in this plan to preclude negotiations between communities for a united India.

4. It is not the intention of His Majesty's Government to interrupt the work of the existing Constituent Assembly. Now that provision is made for certain provinces specified below, His Majesty's Government trust that, as a consequence of this announcement, the Muslim League representatives of those provinces, a majority of whose representatives are already participating in it, will now take their due share in its labours. At the same time, it is clear that any Constitution framed by this Assembly cannot apply to those parts of the country which are unwilling to accept it. His Majesty's Government are satisfied that the procedure outlined below embodies the best practical method of ascertaining the wishes of the people of such areas on the issue whether their Constitution is to be framed (a) in the existing Constituent Assembly, or (b) in a new and separate Constituent Assembly consisting of the representatives of those areas which decide not to participate in the existing Constituent Assembly. When this has been done, it will be possible to determine the authority or authorities to whom power should be transferred.

5. The Provincial Legislative Assemblies of Bengal and the Punjab (excluding the European members) will, therefore, each be asked to meet in two parts, one representing the Muslim-majority districts and the other the rest of the province. For the purpose of determining the population of districts, the 1941 census figures will be taken as authoritative. The Muslim-majority districts in these two provinces are set out in the appendix to this announcement.

6. The members of the two parts of each Legislative Assembly sitting separately will be empowered to vote whether or not the province should be partitioned. If a simple majority of either part decides in favour of partition, division will take place and arrangements will be made accordingly.

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7. Before the question as to the partition is decided, it is desirable that the representatives of each part should know in advance which Constituent Assembly the province as a whole would join in the event of the two parts subsequently deciding to remain united. Therefore, if any member of either Legislative Assembly so demands, there shall be held a meeting of all members of the Legislative Assembly (other than European) at which a decision will be taken on the issue as to which Constituent Assembly the province as a whole would join if it were decided by the two parts to remain united.

8. In the event of partition being decided upon, each part of the Legislative Assembly will, on behalf of the areas they represent, decide which of the alternatives in paragraph 4 above to adopt.

9. For the immediate purpose of deciding on the issue of partition, the members of the Legislative Assemblies of Bengal and the Punjab will sit in two parts according to Muslim-majority districts (as laid down in the Appendix) and the non-Muslim majority districts. This is only a preliminary step of a purely temporary nature, as it is evident that for the purpose of a final partion of those Provinces a detailed investigation of boundary question will be needed, and as soon as a decision involving partition has been taken for either Province, a Boundary Commission will be set up by the Governor-General, the membership and terms of reference of which will be settled in consultation with those concerned. It will be instructed to demarcate the boundaries of the two parts of the Punjab on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims. It will also be instructed to take into account other factors. Similar instructions will be given to the Bengal Boundary Commission. Until the report of a Boundary Commission has been put into effect, the provisonal boundaries indicated in the Appendix will be used.

10. The Legislative Assembly of Sind (excluding the European members) will, at a special meeting, also take its own decision on the alternatives in paragraph 4 above.

11. The position of the North-West Frontier Province is exceptional. Two of the three representatives of this Province are already participating in the existing Constituent Assembly. But it is clear in view of its geographical situation, and other considerations, that if the whole or any part of the Punjab decides not to join the existing Constituent Assembly, it will be necessary to give the North-West Frontier Province an opportunity to reconsider its position. Accordingly in such an event, a referendum will be made to the electors of the present Legislative Assembly in the North West Frontier Province to choose which of the alternatives mentioned in paragraph 4 above they wish to adopt. The referendum will be held under the aegis of the Governor-General and in consultation with the Provincial Government.

12. British Baluchistan has elected a member but he has not taken his seat in the existing Constituent Assembly. In view of its geographical situation, this Province will also be given an opportunity to reconsider its position and to choose which of the alternatives in paragraph 4 above to adopt. His excellency the Governor-General is examining how this can most appropriately be done.

13. Though Assam is predominantly a non-Muslim Province, the district of Sylhet which is contiguous to Bengal is predominantly Muslim.

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There has been a demand that, in the event of the partition of Bengal, Sylhet should be amalgamated with the Muslim part of Bengal. Accordingly, if it is decided that Bengal should be partitioned, a referendum will be held in Sylhet district under the aegis of the Governor-General and in consultation with the Assam Provincial Government to decide whether the district of Sylhet should continue to form part of the Assam Province or should be amalgamated with the new Province of East Bengal if that province agrees. If the referendum results in favour of amalgamation with East Bengal, a Boundary Commission with terms of reference similar to those for the Punjab and Bengal will be set up to demarcate the Muslim-mojority area of Sylhet district and contiguous Muslim-majority areas of adjoining district, which will then be transferred to East Bengal. The rest of the Province will, in any case, continue to participate in the existing Constituent Assembly.

14. If it is decided that Bengal and Punjab should be partitioned, it will be necessary to hold fresh elections to choose their representatives on the scale of one for every million of population, according to the principle contained in the Cabinet Mission's Plan of May 16th 1946. Similar elections will also have to be held for Sylhet in the event of it being decided that this district should form part of East Bengal. The number of representatives to which each area shall be entitled is as follows :

Province	General	Muslim	Sikh	Total
Sylhet District	1	2	Nil	3
West Bengal	15	4	Nil	19
East Bengal	12	29	Nil	41
West Punjab	3	12	2	17
East Punjab	6	4	2	12

15. In accordance with the mandates given to them, the representatives of various areas will either join the existing Constituent Assembly or form the new Constituent Assembly.

16. Negotiations will have to be initiated as soon as possible on the administrative consequences of any partition that may have been decided upon :

(a) between the representatives of the respective successor authorities about all subjects now dealt with by the Central Government including Defence, Finance and Communications :

(b) between different successor authorities and His Majesty's Government for treaties in regard to matters arising out of transfer of power ;

(c) in the case of Provinces that may be partitioned as to the administration of all Provincial subjects, such as the division of assets and liabilities, the Police and other services, the High Courts, Provincial institutions etc.

17. Agreements with tribes of the North-West Frontier of India will have to be negotiated by the appropriate successor authority.

18. His Majesty's Government wish to make it clear that the decisions announced above relate only to British India and that their policy towards Indian States contained in the Cabinet Mission Memorandum of May 12th 1946, remains unchanged.

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19. In order that the successor authorities may have time to prepare themselves to take over power, it is important that all above processes should be completed as quickly as possible. To avoid delay, the different Provinces or parts of Provinces will proceed independently as far as practicable within the conditions of this plan. The existing Constituent Assembly and the new Constituent Assembly (if formed) will proceed to frame Constitution for their respective territories ; they will of course be free to frame their own rules.

20. The major political parties have repeatedly emphasised their desire that there should be the earliest possible transfer of power in India. With this desire His Majesty's Government are in full sympathy, and they are willing to anticipate the date of June 1948 for the handing over of power by the setting up of an independent Indian Government or Governments at an even earlier date. Accordingly, as the most expeditious and indeed the only practicable way of meeting this desire, His Majesty's Government propose to introduce legislation, during the current session for the transfer of power this year on a Dominion Status basis to one or two successor authorities according to the decisions taken as a result of this announcement. This will be without prejudice to the right of the Indian Constituent Assemblies to decide in due course whether or not the part of India in respect of which they have authority will remain within the British Commonwealth.

21. His Excellency the Governor-General will, from time to time, make such further announcements as may be necessary in regard to procedure or any other matters for carrying out the above arrangement.

Appendix

(Vide Para 5 of Statement)

Muslim-majority districts of Punjab and Bengal according to 1941 census.

I. Punbjab :

Lahore Division : Gujranwala, Gurdaspur, Lahore, Sheikhupura, Sialkot.

Rawalpindi Division : Attock, Gujrat, Jhelum, Mianwali, Rawalpindi, Shahpur.

Multan Division : Dera Ghazi-Khan, Jhang, Lyallpur, Montgomery, Multan, Muzzaffargarh.

2. Bengal :

Chittagong Division : Chittagong, Noakhali, Tipperah,

Dacca Division : Bakargunj Dacca, Faridpur, Mymensingh.

Presidency Division : Jessore, Murshidabad, Nadia.

Rajshahi Division : Bogra, Dinajpur, Malda, Pabna, Rajshahi, Rangpur.

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Sections 1, 2 and 7 of

The Indian Independence Act 1947

Passed by the British Parliament on July 17, 1947

An Act to make provision for the setting up in India of two independent Dominions, to substitute other provisions for certain provisions of the Government of India Act 1935, which apply outside those Dominions, and to provide for other matters consequential on or connected with the setting up of two Dominions.

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows :

1. The new Dominions. (1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

(2) The said Dominions are hereafter in this Act referred to as "the new Dominions" and the said fifteenth day of August is hereafter in this Act referred to as "the appointed day."

2. Territories of the new Dominions. (1) Subject to the provisions of sub-section (3) and (4) of this section the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which under sub-section (2) of this section are to be the territories of Pakistan.

(2) Subject to the provisions of sub-section (3) and (4) of this section the territories of Pakistan shall be

(a) the territories which, on the appointed day, are included in the Provinces of East Bengal and West Punjab, as constituted under the two following sections;

(b) the territories which at the date of the passing of this Act are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan and

(c) if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the North-West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.

(3) Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that

(a) no area not forming part of the territories specified in sub-section (1) or, as the case may be, sub-section (2) of this section shall be included in either Dominion without the consent of that Dominion and

(b) no area which forms part of the territories specified in the said sub-section (1) or, as the case may be, the said sub-section (2) or

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which has after the appointed day been included in either Dominion, shall be excluded from that Dominion without the consent of that Dominion.

(4) Without prejudice to the generality of the provisions of sub-section (3) of this section, nothing in this section shall be construed as preventing the accesion of Indian States to either of the new Dominions.

7. Consequences of the setting up of the new Dominions. (1) As from the appointed day.

(a) His Majesty's Government in the United Kingdom have no responsibility as respects the Government of any of the territories which, immediately before that day, were included in British India,

(b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the Rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the Rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in, or in relation to, Indian States by treaty, grant, usage, sufferance or otherwise, and

(c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any person having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in, or in relation to, tribal areas by treaty, grant, usage, sufferance or otherwise :

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this sub-section, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is herein referred to which relate to Customs, Transit and Communications, Posts and Telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "India Imperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great seal of the Realm.

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Mountbatten's Address to Princes

Crown Representative Lord Louis Mountbatten's Address to a special full meeting of the Chamber of Princes held in New Delhi on July 25, 1947.

"It is a great pleasure and a great privilege for me to address so many Rulers, Dewans and Representatives of the States of India in this historic Chamber of Princes. It is the first and the last occasion that I have the privilege of addressing you as Crown Representative.

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I would like to begin by giving you a very brief history of the negotiations I have conducted since I have been out here and the line that I have taken up about the States.

There were two distinct problems that faced me. The first was how to transfer power to British India and the second, how to fit Indian States into the picture in a manner which would be fair and just to all concerned.

I dealt first with the problem of British India, because you will realise that until that problem was solved it was quite useless to try to start on a solution of the problem of the States. So I addressed my mind to the former.

There had been universal acceptance among the States of the Cabinet Mission's Memorandum of 12th May and when the political parties accepted the Statement of 3rd June they fully realised and accepted that withdrawal of paramountcy would enable the States to regain complete sovereignty. That gave me a starting point from which to try and deal fairly with the States.

But before I got down to dealing with the States there was one other thing that I clearly had to do. I had to address myself to the problem of the mechanics of partition—a plan against my personal desires. As you all know, it took three years to separate Burma from India, in spite of the fact—as I can testify, as also Highness of Bundi and others who fought in Burma—that there are no roads running between India and Burma. Nevertheless, it took three years to arrange the partition. It took years to separate the Province of Sind from Bombay. It took two years to separate the Province of Orissa from Bihar. Gentlemen, we decided that in less than two and a half months we shall have to go through the partitioning of one of the biggest countries in the world with 400 million inhabitants. There was a reason for the speed. I was quite certain that while the British overlordship remained no satisfactory conclusions could be reached psychologically between the parties. So once we got the two Governments set up and separated, they would be able to try and finish off the details in an atmosphere of goodwill.

Now, the Indian Independence Act releases the States from all their obligations to the Crown. The States will have complete freedom—technically and legally they become independent. Presently I will discuss the degree of independence which we ourselves feel is best in the interests of your own States. But there has grown up during the period of British administration, owing to the fact that the Crown Representative and the Viceroy are one and the same person, a system of co-ordinated administration on all matters of common concern which meant that the subcontinent of India acted as an economic entity. That link is now to be broken. If nothing can be put in its place, only chaos can result, and that chaos, I submit, will hurt the States first—the bigger the State the less the hurt and the longer it will take to feel it—but even the biggest of the States will feel the hurt just the same as any small State.

The first step was to set up some machinery by which it was possible to put the two future Governments of India—the Dominions of India and Pakistan—into direct touch with the States. So I conceived the scheme of setting up two States Departments within the future Governments. Please note that these States Departments are not the successors of the Political Department. They have been set up simultaneously and side by

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side. While the Political Department exercised functions relating to paramountcy on behalf of the Crown Representative, the States Departments are to take over those subjects gradually which have nothing to do with paramountcy but which will be concerned with relations with neighbouring States and also provide the machinery to negotiate in such matters. In India the States Department is under the admirable guidance of Sardar Vallabhbhai Patel with my own Reforms Commissioner, Mr. V.P. Menon, as Secretary. In Pakistan the Department is under Sardar Abdur Rab Nishtar with Mr. Ikramullah as the Secretary.

It was necessary to set up two States Departments, one in each Government, because the States are theoretically free to link their future with whichever Dominion they may care. But when I say that they are at liberty to link up with either of the Dominions, may I point out that there are certain geographical compulsions which cannot be evaded. Out of something like 565 States, the vast majority are irretrievably linked geographically with the Dominion of India. The problem, therefore, is of far greater magnitude with the Dominion of India than it is with Pakistan. In the case of Pakistan the States, although important, are not so numerous, and Mr. Jinnah, the future Governor-General of Pakistan, is prepared to negotiate the case of each State separately and individually. But in the case of India where the overwhelming majority of the States are involved, clearly separate negotiation with each State is out of the question.

The first step that I took was to suggest that in the Bill before Parliament—the Indian Independence Act—a clause should be put in which would enable certain essential agreements to continue until denounced by either side. That was only done to ensure that there should be some continuity if in the short time available it was not possible to get the agreement through with every State representative. It does not replace the need for Standstill Agreements ; it gives a very slight breathing space.

Now, I think it is no exaggeration to say that most Rulers and Dewans were apprehensive as to what their future would be when paramountcy lapsed. At one time it appeared that unless they joined the Constituent Assembly and accepted the Constitution when it was framed, they would be outside the organisation and left in a position which, I submit, no State could view with equanimity—left out and having no satisfactory relations or contacts with either Dominion Government. You can imagine how relieved I was, and I am sure you will yourselves have been equally relieved, when Sardar Vallabhbhai Patel on taking over the States Department made, if I may say so, a most statesmanlike statement of what he considered were the essentials towards agreement between the States and the Dominion of India.

Let us turn for one moment to the Cabinet Mission Plan of 16 May 1946. In this plan the proposal was that the States should surrender to the Central Government three subjects—Defence, External Affairs and Communications. That was a plan which, to the best of my belief, every Ruler and every State accepted as reasonable, fair and just. I talked with so many Rulers and everyone felt that Defence was a matter that a State could not conduct for itself. I am not talking of internal security but of defence against external aggression. I submit, that if you do not

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link up with one or the other of the Dominions, you may be cut off from any source of supplies of up-to-date arms or weapons.

"External Affairs" is inextricably linked up with Defence. "External Affairs" is something again which is outside the boundaries of India in which not even the greatest State can operate effectively. You can hardly want to go to the expense of having Ambassadors or Ministers or Consuls in all foreign countries, surely you want to be able to use those of India or Pakistan. Once more I suggest that "External Affairs" is something that you have not dealt with since the formation of the East India Company. It would be difficult to operate and will also be a source of embarrassment for you to have to take it up and it can only be managed by those who manage the Defence of the country. I submit that if you take it up it will be a libility and not an asset.

The third subject is Communications. "Communications" is really a means of maintaining the life-blood of the whole subcontinent. I imagine everybody agrees that the life of the country has got to go on. The continuity of communications is already provided for to a certain extent in the Indian Independence Act, and most of the representatives here have come to discuss it as Item 2 on the agenda.

Therefore I am sure you will agree that these three subjects have got to be handled for you, for your convenience and advantage, by a larger organisation. This seems so obvious that I was at a loss to understand why some Rulers were reluctant to accept the position. One explanation probably was that some of you were apprehensive that the Central Government would attempt to impose a financial liability on the States or encroach in other ways on their sovereignty. If I am right in this assumption, at any rate so far as some Princes are concerned, I think I can dispel their apprehensions and misgivings. The Draft Instument of Accession which I have caused to be circulated as a basis for discussion (and not for publication) to the representatives of the States provides that the States accede to the appropriate Dominion on the three subjects only without any financial liability. Further, that Instrument contains an explicit provision that in no other matters has the Central Government any authority to encroach on the internal autonomy or the sovereignty of the States. This would, in my view, be a tremendous achievement for the States. But I must make it clear that I have still to persuade the Government of India to accept it. If all of you will co-operate with me and are ready to accede, I am confident that I can succeed in my efforts. Remember that the day of the transfer of power is very close and if you are prepared to come, you must come before 15 August. I have no doubt that this is in the best interests of the States, and every wise ruler and wise Government would desire to link up with the great Dominion of India on basis which leaves you great internal autonomy and which at the same time gets rid of your worries and cares over External Affairs, Defence and Communications.

The whole country is passing through a critical period. I am not asking any State to make any intolerable sacrifice of either its internal autonomy or independence. My scheme leaves you with all the practical independence that you can possibly use and makes you free of all those subjects which you cannot possibly manage on your own. You cannot run away from the Dominion Government which is your neighbour any more than you can run away from the subjects for whose welfare you are responsible. What-

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ever may be your decision, I hope you feel that I have, at least, done my duty by the States.

Standstill Agreement Form (India)

Form of Standstill Agreement entered into by the Dominion of India and the Indian States.

Whereas it is to the benefit and advantage of the Dominion of India as well as of the Indian states that existing agreements and administrative arrangements in the matters of common concern should continue for the time being, between the Dominion of India or any part thereof and the Indian States.

Now therefore, it is agreed between the·····State and the Dominion of India that :

1. (I) Until agreements in this behalf are made, all agreements and administrative arrangements as to the matters of common concern now existing between the Crown and any Indian State shall, in so far as may be appropriate. continue as between the Dominion of India or as the case may be, the part thereof and the State.

(2) In particular, and without derogation from the generality of sub-clause (1) of this clause the matters referred to above shall include the matters specified in the Schedule to this agreement.

2. Any dispute arising out of this Agreement, or out of agreements or arrangements hereby continued shall, unless any provision is made therein for arbitration by an authority other than the Governor-General or Governor, be settled by arbitration, according, as far as may be, to the procedure of the Indian Arbitration Act 1899.

3. Nothing in this agreement includes the exercise of any paramountcy functions.

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State

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Secretary to the Government of India

Schedule

1. Air communications.
2. Arms and equipment.
3. Control of commodities.
4. Currency and coinage.
5. Customs
6. Indian State forces.
7. External Affairs
8. Extradition.
9. Import and Export control.
10. Irrigation and electric power.
11. Motor Vehicles.
12. National Highways.
13. Opium
14. Posts, Telegraphs and Telephones.
15. Railways (including Police and arrangements in Railway lands.)
16. Salt.
17. Central excises, relief from double income-Tax and other arrangements relating to taxation.
18. Wireless.

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Kashmir-Pak Standstill Agreement

Telegram from Prime Minister, Kashmir State, to Sardar Abdur Rab Nishtar, States Ralations Department, Karachi, Dated 12-8-1947.

"Jammu and Kashmir Government would welcome Standstill Agreements with Pakistan on all matters on which these exist at present moment with outgoing British India Government. It is suggested that existing arrangements should continue pending settlement of details and formal execution of fresh agreements."

Telegram from Foreign Secretary, Government of Pakistan, Karachi, to Prime Minister of Jammu ond Kashmir, Srinagar, daled 15-8-1947.

"Your telegram of the 12th. The Government of Pakistan agree to have a Standstill Agreement with the Government of Jammu and Kashmir for the continuance of the existing arrangements pending settlement of details and formal execution of fresh agreements."

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Telegrams exchanged between India and Kashmir

From Kashmir : "Jammu and Kashmir Government would welcome Standstill Agreements with Union of India on all matters on which these exist at the present moment with outgoing British Indian Government. It is suggested that existing arrangements should continue pending settlement of details and formal execution of fresh agreements."

Reply From India : "Government of India would be glad if you or some other Minister duly authorised in this behalf could fly to Delhi for negotiating Standstill Agreement between Kashmir Government and Indian Dominion. Early action desirable to maintain intact existing agreements and administrative arrangements."

Note :—No standstill Agreement was subsequently concluded between Kashmir and India.

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Section III

Recrimination and Accession

No detailed provision for the accession of the States to either of the new Dominions of India and Pakistan was made in the Indian independence Act. The Act, however, provided for the continuance in force of the Government of India Act 1935 with such modifications as the Governor-General of either Dominion might, by order, specify till the framing of the country's new Constitution.

Legal provision for the accession of the States to either of the new Dominions was made by adaptation of section 6 of the Government of India Act 1935 by the Governors-General in the two Dominions. Section 6 of the Act as adapted in India and Pakistan on more or less identical lines laid down that a State shall be deemed to have acceded to the new Dominion if the Governor-General signifies acceptance of an Instrument of Accession executed by the Ruler of the State or any other person exercizing for the time being the powers of the Ruler. Variation of the terms of accession through execution of a supplementary Instrument of Accession by the Ruler was also provided for. The Dominion Legislature, Executive and Judiciary were to have powers only in respect of subjects specified in the Instrument of Accession.

But Section 7 of the Indian Independence Act provided for the continuance of existing arrangements between the States and the new Dominions or provinces thereof in respect of customs, transit, communications, posts and telegraphs and like matters till such arrangements were denounced by either party or substituted by fresh agreement. The State of Jammu and Kashmir entered into a Standstill Agreement with Pakistan through an exchange of telegrams between the two Governments on August 12, and 15, 1947. The State had requested a similar agreement with India through a telegram on August 12, 1947. No arrangement was, however, ever reached between the two as India wanted representatives of the State to come to Delhi for discussions on the subject and they, for a variety of reasons, never came to Delhi.

A number of telegrams making various allegations against each other was exchanged between the State of Jammu and Kashmir and Pakistan between September and October 20, 1947. Kashmir complained against violation of the Standstill Agreement, of incursions into the State territory by raiders from across Pakistan and of hostile propaganda in the Pakistan Press. Pakistan alleged repression and massacre of Muslims in the State and also of incursions into its territory by armed bands from Kashmir. The earliest of these telegrams available is that of October 12, 1947 from Pakistan to Kashmir alleging suppression of Muslims in the Poonch Jagir. The allegations are categorically denied by the State Prime Minister in a telegram sent on October 15 which offers to have an "impartial inquiry

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into the matter". This is accepted by Pakistan in a telegram sent on October 18. That day the new Kashmir Prime Minister, Mr. Mehar Chand Mahajan, who took charge of his office on October 15, 1947, sent a strongly-worded telegram to Qaid-E-Azam Mohd. Ali Jinnah, the Pakistan Governor-General, making several allegations against Pakistan and threatening to call in outside assistance if Pakistan failed to remedy matters. Mr. Jinnah in his reply dated October 20, 1947, addressed to the Maharaja of Kashmir, protested against the threatening tone of the telegram, denied the allegations and attributed difficulties encountered by Kashmir to shortage of coal supplies from East Punjab and communal disturbances—the aftermath of the partition. Mr. Jinnah also alleged organized killing of Muslims in the State. He, however, welcomed the suggestion for impartial inquiry made by the Kashmir Premier and accepted by Pakistan Prime Minister in his telegram of October 18, 1947 and assured the State of Pakistan's "every intention of honouring its promises". No reply was ever sent to the Pakistan Governor-General. According to Pakistan sources a senior official of the Central Government was sent to Srinagar but the Maharaja declined to have any talks with him.

At about 11 P.M. on October 24, 1947, India received a request from Kashmir for armed assistance against raiders from Pakistan who, since Oct. 22, 1947, were forming part of "an organized invasion". The request was considered at a meeting of India's Defence Committee held under the Presidentship of Lord Mountbatten the following morning. The Committee considered "the most immediate necessity was to rush arms and ammunition already requested by the Kashmir Government, which would enable the local populace in Sriangar to put up some defence against the raiders". But "Mountbatten urged that it would be dangerous to send in any troops unless Kashmir had first offered to accede".* The Chiefs of Indian Army, Air Force and Navy were given directions the same morning "to examine and prepare plans for sending troops to Kashmir by air and road in case this should be necessary to stop the tribal incursions".** Simultaneously V. P. Menon, the State Secretary, was sent to Srinagar to assess the situation and meet the Maharaja. Two staff officers of the Indian Army and Air force were also flown to Srinagar the same afternoon.

Menon returned to Delhi on October 26, with the Instrument of Accession duly executed by the Kashmir Maharaja the same day. Lord Mountbatten reiterated his suggestion made at the Defence Committee meeting on October 25, that the accession of Kashmir should be considered as temporary to be finalized through a plebiscite. He urged "that in reply his Government asked him to send on their behalf to the Maharaja accepting his accession offer he should be allowed to add that this was conditional on the will of the people being ascertained as soon as law and order were restored. This principle was at once freely accepted and unilaterally proposed by Nehru."***

Before the accession was accepted both the Kashmir Prime Minister, Mehar Chand Mahajan, and the National Conference leader, Sheikh Abdullah had discussions with Nehru on the subject. According to Mehar Chand Mahajan Sheikh Abdullah came to his rescue by "urging immediate

*Campbell Johnson. "Misson with Mountbatten" Page 469.
**Security Council Official Records Third Year Nos 1—15 Page 222—223.
***Campbell Johnson "Mission with Mountbatten" Page 225.

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acceptance of the accession and despatch of troops to Kashmir". Sheikh Abdullah, it may be stated, had in his earlier statements "pleaded for time to consider which Dominion the State should join" and told a meeting in Delhi on October 21, that "in the meantime our friends could help us to attain freedom from autocracy."*

Lord Mountbatten accepted the Maharaja's offer of accession on October 27, 1947. In a letter conveying his acceptance of the State's accession to India, the Governor-General wrote to the Maharaja that his Government had decided to accept the accession "in the sepicial circumstances mentioned by your Highness" He, however, added "Consistently with their policy that where the issue of accession has been the subject of dispute the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the raider the question of State's accession should be settled by a reference to the people". Lord Mountbatten informed the Ruler that Indian troops were being flown to the State the same day.

According to Menon also, to quote from his book "the Integration of Indian States" the accession of Kashmir State to India was accepted as "conditional and provisional". The policy of referring the issue of accession to the people was evolved by the Government with Junagadh's accession to Pakistan in September 1947 which they declined to recognize and moved their troops into the State at the invitation of the Dewan-Later speaking in the Security Council Gopalaswamy Ayyangar offered to have another plebiscite in Junagadh under U.N. auspices. In Kashmir the Muslim Conference advocated accession to Pakistan while the National Conference was known to favour the State's link with India. As, however, only a reference to the people alone could determine which of these two organizations enjoyed the support of the majority, the Government of India made the stipulation in regard to the reference to the people and had it conveyed to the Maharaja through Lord Mountbatten's letter of October 27, 1947.

Section 6 of the

Government of India Act, 1935, As Amended In India

6. ACCESSOIN OF INDIAN STATES—(1) An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof whereby the Ruler on behalf of the State:

(a) declares that he accedes to the Dominion with the intent that the Governor-General, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes of the Dominion, exercise in relation to the State such functions as may be vested in them by order under this Act ; and

*The "Statesman" New Delhi—October 22, 1947.

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(b) assumes the obligation of ensuring that due effect is given within the State to the provisions of this Act so far as they are applicable therein by virtue of the Instrument of Accession.

(2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Dominion Legislature may make laws for the State, and the limitations, if any, to which the power of the Dominion Legislature to make laws for the State, and the exercise of the Executive authority of the Dominion of the State, are respectively to be subject.

(3) A Ruler may, by a supplementary Instrument executed by him and accepted by the Governor-General, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by any Dominion authority in relation to his State.

(4) References in this Act to the Ruler of a State include references to any person for the time being exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.

(5) In this Act a State which has acceded to the Dominion is referred to as an Acceding State and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(6) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by the Governor-General under this section, copies of the Instrument and of the Governor-General's acceptance thereof shall be laid before the Dominion Legislature, and all courts shall take judicial notice of every such Instrument and acceptance.

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Section 6 of the Government of India Act 1935

(*As adapted by the Pakistan Provisional Constitution Order 1947*)

Clauses (1), (2) and (3) of section 6 of the Government of India Act 1935 as adapted in Pakistan are identical with such clauses of the section as adapted in India with the exception that the words "Federation and federal" throughout replace the word 'Dominion' as noun and adjective respectively in the Indian Section. In clause (1) the word "Indian" is omitted in the opening line and the expression "Ruler for himself, his heirs and successors" replaces the words after Ruler in the last line in the Indian section. In Section 6 (1) (a) "Federation as by law established" substitutes "Dominion" in the opening line. Clause (8) and (9) of the Pakistan section are identical with clauses (5) and (6) respectively of the Indian Section with the exception that the words "Federated State" replace the words "Acceding State" in clause (8). Clauses (4), (5) and (6) of section 6 of the Government of India Act 1935 as adapted in Pakistan are reproduced below.

(4) Nothing in this section shall be construed as requiring the Governor-General to accept any Instrument of Accession or supplementary Instrument unless he considers it proper so to do or empowering the Governor-General to accept any such Instrument if it appears to him that

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the terms thereof are inconsistent with the Scheme of the Federation embodied in this Act.

Provided that if any Instrument has in fact been accepted by the Governor-General, the validity of that Instrument or any of its provisions shall not be called in question and the provisions of this Act shall, in relation to the State, have effect sebject to the provisions of the Instrument.

(5) It shall be a term of every Instrument of Accession that the provisions of this Act may, without affecting the accession of the State be amended by the Federal Legislature, but no such amendment shall, unless it is accepted by the Ruler in a supplementary Instrument, be construed as extending the functions which by virtue of the Instrument are exercisable by the Governor-General or any Federal authority in relation to the State.

(6) Any Instrument of Accession or supplementary Instrument shall not be valid unless it is executed by the Ruler himself, but subject as aforesaid, references in this Act to the Ruler of a State include references to any person for the time being exercising the powers of the Ruler of State whether by reason of the Ruler's minority or for any other reason.

(7) Omitted.

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Pakistan's Protest to Kashmir

Telegram dated October 12, 1947, from Foreign Secretary to the Government of Pakistan to the Prime Minister of Kashmir.

"Men of Pakistan Army who recently returned from leave at their homes in Poonch report that armed bands, which include troops, are attacking Muslim villages in the State. Their stories are confirmed by the large number of villages that can be seen burning from Murree hills. The Pakistan Government are vitally interested in the maintenance of peace on their borders, and the welfare of Muslims in the adjoining territories, and on those grounds alone would be justified in asking for an assurance that steps be taken to restore order in Poonch. One feature of the present situation in Poonch which, however, makes it peculiarly dangerous to the friendly relations which the Pakistan Government wishes to retain with Kashmir, is that the Pakistan Army obtains a large number of recruits from Poonch. Feeling in the battalions to which these men belong is rapidly rising and the situation is fraught with danger. The Pakistan Government wishes to avoid such a situation as they are sure do the Government of Kashmir, but if it is to be avoided, immediate and effective steps must be taken to end the present state of affairs, and in particular, if it is true that State troops are taking part in the attack on Muslims, to ensure the restoration of their discipline. The Government of Pakistan would like to be informed of the action taken."

The same day another telegram alleging a number of raids from across Jammu border into Sialkot and taking strong exception to the State territory being used by non-Muslims for operations against Pakistan was sent by the Pakistan Foreign Secretary to Kashmir. The telegram said that the continuance

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of these raids will be regarded as "an unfriendly act" and urged "immediate and firm action to put a stop to them".

Kashmir's Offer of Inquiry

In his reply dated October 15, 1947 the Prime Minister of Kashmir said :—"This Government has ample proof of infiltration. As is the result in every Government, including Pakistan Dominion, Military has to take action when disturbances caused cannot adequately be dealt with by Civil Administration. If this action hurts anyone's feelings, Government hopes you will agree that it is for them to help in the task of restoration of peace. Government is prepared to have an impartial inquiry made into the whole affair with a view to remove misunderstanding and to restore cordial relations which this Government has strictly kept in view so far even in spite of provocations by the people across the border and has maintained it in its true spirits. If, unfortunately, this request is not heeded Government, much against its wishes, will have no option but to ask for assistance to withstand aggressive and unfriendly actions of the Pakistan people along our border."

———

Kashmir's Charge Against Pakistan.

Text of telegram dated October 18, 1947 from the Prime Minister of Kashmir to the Governor-General of Pakistan.

"Ever since August fifteenth in spite of agreement to observe Standstill Agreement on matters on which agreement existed on August 14 with British India, increasing difficulties have been felt not only with regard to supplies from West Punjab of petrol, oils, food, salt, sugar and cloth but also in the working of the postal system which has been most detrimental to the people as well as the administration. Saving Bank accounts refused to be operated. Postal certificates not cashed. Cheques by branches here of West Punjab Banks not honoured. Even Imperial Bank branches put hard to meet obligations owing failure of remittances from Lahore Currency Officer. Motor vehicles registered in the State have been held at Rawalpindi Railway traffic from Sialkot to Jammu has been discontinued. While the State has offered safe passage to about one lakh Muslim refugees from Pathankot to Sialkot, the Rawalpindi people have murdered and wounded in cold blood over 180 out of a party of 220 Kashmir nationals being conveyed to Kohala at State request. People armed with modern long-range fire arms have infiltrated in thousands in Poonch bad committed horrors on non-Muslims, murdering, maiming and looting them and burning their houses as well as kidnapping women. Instead cooperation asked for through every possible local as well as provincial authorities and Central authority, paper promises have been made, actually followed by more rigorous action than before. Press and Radio of Pakistan appear actually to have been licensed to pour volumes of fallacious, libellous and false propaganda. Smaller feudatory States have been prompted to threat even armed interference into the State. Even private people in Pakistan are allowed to wire unbearable threats without any checks by the Pakistan Dominion post offices. To crown all, the State is being blamed for acts which actually are

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being committed by Pakistan people. Villages are being raided from Sialkot and in addition to actual infiltration in Poonch. The Government cannot but conclude that all is being done with the knowledge and connivance of local authorities. The Government also trusts that it would be admitted that these acts are extremely unfriendly if not actually bordering on inimical. Finally the Government wish to make it plain that it is not possible to tolerate this attitude longer without grave consequences to the life, property of people which it is sacredly bound to defend at all costs. The Government even now hopes that you would personally look into the matter and put a stop to all the iniquities which are being perpetrated. If, unfortunately, this request is not heeded the Government fully hope that you would agree that it would be justified in asking for friendly assistance and oppose trespass on its fundamental rights" (copy telegraphed to Pakistan Prime Minister also).

Pakistan's Rebuttal

Text of Foreign Minister Pakistan's Reply to Prime Minister Jammu and Kashmir.

"We are surprised at the contents and tone of your telegram, dated 18 October 1947. Instead of taking immediate and effective action in regard to specific complaints made by us in our telegrams dated 12 October, you have put forward vague allegations of infiltration by people of Pakistan into Kashmir and have accused the border people of manufacturing bad relations. We emphatically and categorically deny the allegations and accusations. People travel to and from between Kashmir and Pakistan in the normal course of business but the allegations regarding the free distributions of arms and ammunition to Pakistan area adjoining the State borders and the infiltration of armed men into State territory are incorrect. On the other hand, there is mounting evidence of ruthless oppression of Muslims in Kashmir State and of raids into Pakistan territory by armed Dogra gangs and non-Muslim refugees from the Punjab. The most recent report is that of an attack on Chamna Khurd village by Dogra Army personnel where they exchanged fire with police killing the Head Constable. Large numbers of armed Sikhs as well as Hindus belonging to the Rashtriya Sewa Sangh have gone to Kashmir with the object of repeating the tactics they followed in East Punjab to kill, terrorise and drive out Muslims. In fact exodus of Musilms from the State has already started. The Pakistan Government must take a most serious view of a state of affairs in which Muslims in Kashmir are suppressed and forcibly driven out.

We are astonished to hear your threat to ask for assistance. Presumably meaning thereby an assistance from outside power. The only object of this intervention by an outside power secured by you would be to complete the process of suppressing the Muslims to enable you to join the Indian Dominion as *coup d'etat* against the declared and well-known will of the Mussalmans and others who form 85 per cent of the population of your State. We must earnestly draw your attention to the fact that if this policy is not changed and the preparations and the measures that you are now taking in implementing this policy are not stopped the gravest consequences will follow for which you alone will be held responsible.

As regards the alleged action of the West Punjab Government in blocking the passage of petrol, cloth and food and in stopping of transport

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we have already informed you that the West Punjab Government have been asked to provide you with all reasonable assistance in these matters. It is entirely wrong to attribute difficulties in transport which have risen owing to circumstances beyond the control of the West Punjab Government to the unfriedly intentions of that Government or to regard it as an act of coercion on your Government in taking a decision about the accession of the State. We have already sent a special officer to discuss with you the problems arising in respect of these matters and to settle ways and means of adjusting the difficulties.

Having regard to the gravity of the situation we have carefully considered your suggestion to have an impartial inquiry made into the whole affair. We appreciate the suggestion and ask you immediately to nominate your representative on this Enquiry Committee. On hearing from you we will nominate our representative without delay so that the Committee can proceed at once with a thorough Enquiry into the whole matter. In the meantime we hope that every effort will be made on both sides to restore cordial relations between us."

Jinnah's Reply

Text of telegram dated October 20, 1947 from the Governor-General of Pakistan, to the Maharaja of Jammu and Kashmir.

"I have received telegram of the 18th October from your Prime Minister regarding the situation in Kashmir which, I regret, was released to the Press before it reached me and before I could deal with it. My Government have already been in communication with your Government and I deplore that your Prime Minister should have resorted to the tone and language adopted in his telegram to me which embodies a threat to seek outside assistance and is almost in the nature of an ultimatum. This is hardly the way for any responsible and friendly Government to handle the situation that has arisen.

2. On 15th October your Prime Minister sent a telegram to my Government making similar allegations in the same offensive manner as have been repeated in his telegram of 18th October now addressed to me without waiting for the reply for his earlier telegram from my Government. My Government have already replied to that telegram on the 18th October and this reply shows clearly that your Government's wholly one-sided and ex-parte allegations cannot be supported. Since your Government have released to the Press the telegram addressed to me under reply, my Government have no other course left open and have, therefore, decided to release to the Press their reply referred to above refuting your allegations.

3. The allegation in the telegram under reply that the Standstill Agreement has not been observed is entirely wrong. The difficulties that have been felt by your administration have arisen as a result of the widespread disturbances in East Punjab and the disruption of communications caused thereby particularly by the shortage of coal. These difficulties have been felt actually by the West Punjab Government themselves. The difficulties with regard to banking facilities were caused by the lack of staff in various banks and cannot be laid at the door of the West Punjab Government, who have in fact tried their best to ensure protection to

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the banks. The failure of remittances from Lahore Currency Officer has nothing to do with the Pakistan Government since the Lahore Currency Officer is under the Reserve Bank of India. Your Government's complaints regarding Press reports and telegrams by private persons are also wide off the mark. Your Government do not realize that there is no censorship in West Punjab. The complaint about local and provincial authorities is thus wholly unfounded. It is a travesty of the truth to call the promises of the Central Government paper promises, as your Government alleges. My Government adhere to those assurances and have every intention of carrying out the Standstill Agreement.

4. In order to remove various difficulties relating to communications and supply of goods my Government suggested long ago that representatives of the Governments of Pakistan and Kashmir should meet. That request was ignored. In the circumstances I am, reluctantly, forced to the conclusion that the unfounded allegations and accusations are only a smoke-screen to cover the real aim of your Government's policy. A recent instance of this policy is the differential treatment accorded to leaders of the Kashmir National Conference and the Muslim Conference. On the one hand, your Government has released Shiekh Abdullah who was tried and convicted of high treason ; removed the ban on his colleagues and allowed the National Conference a free field in which to carry on their propaganda. On the other hand, Mr. Ghulam Abbas and his colleagues whose alleged offence was only that they disobeyd the order banning the meeting of the Muslim Conference are still rotting in jail and the Muslim Conference organization is not allowed its elementary right of civil liberties. The course which your Government is pursuing in suppressing the Mussalmans in every way, the atrocities which are being committed by your troops and which are driving Muslims out of the State, various indications given in the Press particularly the release to the Press of your Prime Minister's telegram addressed to me containing unfounded allegations and the threat to enlist outside assistance, show clearly that the real aim of your Government's policy is to seek an opportunity to join the Indian Dominion through a *coup d'etat* by securing the intervention and assistance of that Dominion. This policy is naturally creating deep resentment and grave apprehension among your subjects 85 per cent of whom are Muslims.

5. The proposal made by my Government for a meeting with your accredited representatives is now an urgent necessity. I suggest that the way to smooth out difficulties and adjust matters in a friendly way is for your Prime Minister to come to Karachi and discuss the developments that have taken place instead of carrying on acrimonious and bitter controversy by telegrams and correspondence. I would also repeat that I endorse the suggestion made in your Prime Minister's telegram of 15th October and accepted by my Government in their reply of 18th October to have an impartial enquiry made into the whole affair."

———

Pakistan Concern about Killings in Poonch

Text of message from Foreign Minister, Pakistan, to Prime Minister Jammu and Kashmir Dated 21 October 1947.

"In our telegram, dated 12th October 1947, we drew your attention to the grave situation in Poonch. Reports since received indicate that a reign

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of terror has been let loose in Poonch and that terrible atrocities are being committed by Dogra troops operating in Poonch area. Large numbers of refugees are crossing from Kashmir territory into Pakistan and they relate stories of inhuman barbarity. Serious anxiety about the safety of their families in Poonch areas is being felt by Pakistan military personnel whom it is exceedingly difficult to reassure in absence of any clear reports or assurances from you. Request immediate detailed report of conditions and assurances of security for Muslim life and property."

———

Kashmir's Denial

Telegram from Minister External Relations Jammu and Kashmir to Foreign Minister Pakistan, Dated October 22, 1947.

"Your telegram regarding Poonch. Facts reverse of what alleged. People from across border Rawalpindi and Hazara District causing trouble which has been extended by them from this morning to Muzaffarabad District of Kashmir Province as well. Pakistan Government can put end to feelings of resentment of Pakistan Army people belonging to this State whose relations in consequence of disturbances created by Pakistan people are displaced and put to inconvenience. Allegations of reign of terror created by Dogra are not related to facts. On other hand copies of telegrams from minority communities suffering most at the hands of invaders are reproduced below for information.

Telegram public Poonch ; 'Hindus and Sikhs in danger of being completely wiped out. Rebels fifteen miles from city. Crisis increases every moment.'

Telegram Hindus, Sikhs, Poonch begins 'Situation extremely grave. Four Rajput families numbering 36 ruthlessly butchered at Baral near Palandari. Fate of thousands of surrounding villages unknown. Thick clouds of smoke visible. Refugees in thousands pouring every day. Villages fifteen miles distant ablaze. Raiders at gate of city. Pray arrange immediate aerial survey and dispatch of sufficient reinforcement and save. ends.'

———

Maharaja's Accession Offer to India

Text of letter dated October 26, 1947 from Sir Hari Singh, the Maharaja of Jammu and Kashmir, to Lord Mountbatten, the Governor-General of India.

"My dear Lord Mountbatten,

I have to inform your Excellency that a grave emergency has arisen in my State and request immediate assistance of your Government.

As your Excellency is aware the State of Jammu and Kashmir has not acceded to either the Dominion of India or to Pakistan. Geographically my State is contiguous to both the Dominions. It has vital economic and cultural links with both of them. Besides my State has a common boundary with the Soviet Republic and China. In their external relations the Dominions of India and Pakistan cannot ignore this fact.

I wanted to take time to decide to which Dominion I should accede, or whether it is not in the best interests of both the Dominions and my

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State to stand independent, of course with friendly and cordial relations with both.

I accordingly approached the Dominions of India and Pakistan to enter into Standstill Agreement with my State. The Pakistan Government accepted this Agreement. The Dominion of India desired further discussions with representatives of my Government. I could not arrange this in view of the developments indicated below. In fact the Pakistan Government under the Standstill Agreement are operating Post and Telegraph system inside the State.

Though we have got a Standstill Agreement with the Pakistan Government, that Government permitted steady and increasing strangulation of supplies like food, salt and petrol to my State.

Afridis, soldiers in plain clothes, and desperadoes, with modern weapons have been allowed to infilter into the State at first in Poonch area and then in Sialkot and finally *en masse* in the area adjoining Hazara District on the Ramkote side. The result has been that the limited number of troops at the disposal of the State had to be dispersed and thus had to face the enemy at several points simultaneously, and it has become difficult to stop the wanton destruction of life and property and looting. The Mahoora Power-House which spplies the electric current to the whole of Srinagar has heen burnt. The number of women who have been kidnapped and raped makes my heart bleed. The wild forces thus let loose on the State are marching on with the aim of capturing Srinagar, the summer capital of my Government, as a first step to over-running the whole State.

The mass infiltration of tribesmen drawn from the distant areas of the North-West Frontier Province coming regularly in motor trucks using Mansehra-Muzaffarabad Road and fully armed with up-to-date weapons cannot possibly be done without the knowledge of the Provincial Government of the North-West Frontier Province and the Government of Pakistan. In spite of repeated appeals made by my Government no attempt has been made to check these raiders or stop them from coming to my State. In fact both the Pakistan Radio and Press have reported these occurences. The Pakistan Radio even put out a story that a Provisional Government has been set up in Kashmir. The people of my State both the Muslims and non-muslims generally have taken no part at all.

With the conditions obatining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government. The other alternative is to leave my State and my people to free-booters. On this basis no civillized Government can exist or be maintained. This alternative I will never allow to happen as long as I am Ruler of the State and I have life to defend my country.

I may also inform your Excellency's Government that it is my intention at once to set up an Interim Government and ask Sheikh Abdullah to carry the responsibilities in this emergency with my Prime Minister.

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If my State has to be saved immediate assistance must be available at Srinagar. Mr. Menon is fully aware of the situation and he will explain to you, if further explanation is needed.

"In haste and with kindest regards,

The Palace, Jammu
26th October, 1947.

Yours sincerely,
HARI SINGH

India's Acceptance of Accession

Text of Lord Mountbatten's reply dated October 27 1947 to the Kashmir Ruler signifying his acceptance of the Instrument of Accession.

"My dear Maharaja Sahib,

Your Highness' letter dated 26 October has been delivered to me by Mr. V. P. Menon. In the special circumstances mentioned by your Highness my Government have decided to accept the accession of Kashmir State to the Dominion of India. Consistently with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader the question of the State's accession should be settled by a reference to the people.

Meanwhile in response to your Highness' appeal for military aid action has been taken today to send troops of the Indian Army to Kashmir to help your own forces to defend your territory and to protect the lives, property and honour of your people.

My Government and I note with satisfaction that your Highness has decided to invite Sheikh Abdullah to form an interim Government to work with your Prime Minister.

With kind regards,

I remain,
Yours sincerely,
Mountbatten of Burma."

New Delhi
October 27, 1947,

Instrument of Accession of Jammu and Kashmir State

Whereas the Indian Independence Act, 1947, provides as that from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act, 1935, shall, with such omissions, additions, adaptations and modifications as the Governor-General may by order specify, be applicable to the Dominion of India ;

And whereas the Government of India Act, 1935, as so adapted by the Governor-General provides that an Indian State may accede to

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the Dominion of India by an Instrument of Accession executed by the Ruler thereof :

Now, therefore, I Shriman Inder Mahindar Rajrajeshwar Maharajadhiraj Shri Hari Singhji Jammu Kashmir Naresh Tatha Tibbet adi Deshadhipathi, Ruler of Jammu and Kashmir State, in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu and Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947, (which Act as so in force is hereafter referred to as "the Act").

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. I accept the matters specified in the Schedule hereto as the matters with respect to which the Dominion Legislature may make laws for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment is accepted by me by Instrument supplementary to this Instrument.

6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purpose of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or, if the land belongs to me, transfer it to them on such terms as may be agreed or, in default of agreement, determind by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future Constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future Constitution.

8. Nothing in this Instrument affects the continuance of my sovereignty in and over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed

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by me as Ruler of this State or the validity of any law at present in force in this State.

9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October nineteen hundred and fortyseven.

Hari Singh,
Maharajadhiraj of Jammu and Kashmir State.

———

Acceptance of Instrument of Accession of Jammu and Kashmir State by the Governor-General of India.

I do hereby accept this Instrument of Accession.

Dated this twenty-seventh day of October, nineteen hundred and fortyseven.

Mountbatten of Burma
Governor-General of India.

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Schedule

The matters with respect to which the Dominion Legislature may make laws for this State.

A. *Defence*

1. The naval, military and air forces of the Dominion and any other armed force raised or maintained by an Acceding State, which are attached to, or operating with, any of the armed forces of the Dominion.

2. Naval, military and air force works, administration of cantonment areas.

3. Arms ; firearms ; ammunition.

4. Explosives.

B. *External Affairs*

1. External affairs ; the implementing of treaties and agreements with other countries, extradition, including the surrender of criminals and accused persons to parts of His Majesty's Dominions outside India.

2. Admission into, and emigration and expulsion from India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India or subjects of any Acceding State; pilgrimage to places beyond India.

3. Naturalization.

C. *Communications.*

1. Posts and telegraphs, including telephones, wireless broadcasting, and other like forms of communication.

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2. Federal railways, the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers, the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.

3. Maritime shipping and navigation including shipping and navigation on tidal waters, Admiralty Jurisdiction.

4. Port Quarantine.

5. Major ports, that is to say, the declaration and delimitation of such ports; and the constitution and powers of Port Authorities therein.

6. Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and aerodromes.

7. Light houses, including lightships, beacons and other provisions for the safety of shipping and aircraft.

8. Carriage of passengers and goods by sea or by air.

9. Extension of the powers and jurisdiction of members of the Police force belonging to any unit to railway area outside that unit.

D. *Ancillary.*

1. Elections to the Dominion Legislature, subject to the provisions of the Act and of any Order made therein.

2. Offences against laws with respect to any of the aforesaid matters.

3. Inquiries and statistics for the purposes of any of the aforesaid matters.

4. Jurisdiction and powers of all Courts with respect to any of the aforesaid matters but, except with the consent of the Ruler of the Acceding State, not so as to confer any jurisdiction or powers upon any Courts other than Courts ordinarily exercising jurisdiction in or in relation to that State.

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Section IV

Fighting Out The Dispute

Between October 26, and December 31, 1947 a series of communications was exchanged between India, Pakistan, and the United Kingdom with the object of promoting amicable settlement of Kashmir dispute between India and Pakistan.

These communications, most of them in the form of telegrams, reflect the attitudes and positions taken by India and Pakistan on various aspects of the Kashmir problem. The telegrams sent by Mr. Attlee, the then Prime Minister of the United Kingdom, to the Prime Ministers of India and Pakistan, reflect his characteristic sincerity and earnestness in preventing further complications and suggesting possible ways out of the dispute. Early communications exchanged between the three Prime Ministers are characterised by a note of optimism which, unfortunatly, diminishes with the passage of time.

At the very outset, almost simultaneously with the receipt of appeal for military aid from Kashmir, the Indian Prime Minister Mr. Nehru, sent a cable to the British Prime Minister informing him of "the grave situation that has developed in Kashmir as a result of tribal incursions from across Pakistan border into Kashmir." Mr. Nehru thought it "desirable to inform you of the situation because of its threat of international complications."

This cable, sent on October 26, 1947, the day India received Kashmir's Instrument of Accession, informed Mr. Attlee that an urgent appeal for help had been received from Kashmir and was under consideration. Mr. Nehru, however, assured the British Prime Minister that "the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India and that India adhered to its view that the question of accession in any disputed territory or State must be decided in accordance with the wishes of the people." A copy of the cable was sent by him to Mr. Liaquat Ali Khan, the Pakistan Prime Minister, the following day.

The British Prime Minister in a cable despatched to Mr. Nehru on October 27, 1947 begged him not to let his "answer to the appeal take the form of armed intervention" and suggested a meeting between the Prime Ministers of India and Pakistan and the Kashmir Maharaja to settle the problem. In a separate cable to the Pakistan Prime Minister, he appealed to him to do everything possible to prevent armed intervention. Mr. Attlee, however, informed both of them that he had "received no confirmed reports of the scale and importance of any incursions there may have been."

On October 28, 1947 Mr. Nehru sent a telegram to Mr. Liaquat Ali Khan inviting his "Government's cooperation" in stopping the raiders.

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Mr. Nehru assured the Pakistan Prime Minister that India had no desire to intervene in the affairs of the State. "in regard to accession also it has been made clear that this is subject to reference to the people of State and their decision", he stressed.

Pakistan in its reply to Mr. Attlee sent on October 29, 1947 stated their version of the happenings in Kashmir. It alleged killing of Muslims by Maharaja's troops and a conspiracy on the part of the State Ruler to create a situation for military intervention by India. It recounted the telegrams exchanged between Kashmir and Pakistan upto October 20, 1947 and said that the State's refusal to nominate representatives for an impartial inquiry into various allegations made by Kashmir and Pakistan against each other, the State Ruler's rushing to India for help and the landing by India of its air-borne troops in Srinagar at 9 a. m. on October 27, 1947 showed "the existence of a plan for accession against the will of people possible only by occupation of country by Indian troops." Pakistan Government, it said, "cannot recognize accession of Kashmir to Indian Union achieved as it has been by fraud and violence."

The telegrams exchanged between Mr. Nehru and Mr. Liaquat All Khan from this point onwards consist of allegations and counter-allegations. Pakistan in cables sent to the British Prime Minister doubts Mr. Nehru's motives behind the plebiscite offer. Mr. Attlee, however, declines to accept these allegations and thinks that "while there is difference in the approach of two Governments there is agreement on two points *viz* (1) Indian troops shall be withdrawn from the State as soon as raiders have left and (2) The question of accession shall be decided in accordance with the wishes of people." (Attlee's message of November 7, 1947). He also suggests approaching the International Court of Justice at Hague for assigning men of high integrity to supervise the plebiscite. Pakistan, however, turns down the suggestion and insists on seeking U.N. intervention in the matter. (Cable to Attlee dated November 24, 1947).

Important suggestions made during this period by India and Pakistan for settlement of the dispute are the three-point proposal made by Mr. Jinnah, the Pakistan Governor-General at a meeting with Lord Mountbatten in Lahore on October 1, 1947 and India's counter-proposals communicated in Mr. Nehru's telegram dated November 8, 1947. Mr.Nehru in his broadcast on November 2, 1947 also declared that the acceptance of State's accession was provisional and conditional upon the people's will to be ascertained in a referendum.

Mr. Jinnah proposed a "proclamation by two Governors-General giving forty-eight hour's notice to the opposing forces to cease fire failing which forces of both Dominions would wage war on them ; simultaneous withdrawal from Kashmir of the forces of India and tribesmen and vesting the two Governors-General with powers to restore peace, undertake administration of the State and arrange for plebiscite under their joint control and supervision." In his telegram dated November 8, 1947 Mr. Nehru said that Indian troops will be retained in Kashmir till they had driven out the raiders and no more ; and as regards Mr. Jinnah's proposal No. 3, his Government endorsed Lord Mountbatten's suggestion that plebiscite could be held under the auspices of the U. N. Mr. Nehru reiterated India's proposals for "a public undertaking by Pakistan to do its utmost to compel

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the raiders to withdraw from Kashmir, repetition by India of its declaration for withdrawal of its troops from Kashmir with the restoration of law and order and joint request by India and Pakistan to he U. N. O. to undertake a plebiscite in Kashmir." In addition, he suggested, "in the interest of good relations between India and Pakistan", the acceptance of principle by the two Governments that where the Ruler of a State belonged to a community other than the majority community of his State and the State had not acceded to a Dominion whose majority community was the same as its own the question whether the State had finally acceded to one or the other Dominion should be ascertained by reference to the will of the people. Earlier, in his telegram dated October 31, 1947, Mr. Nehru had told the Pakistan Prime Minister that the accession of Kashmir had been accepted on "condition that as soon as law and order have been restored the people of Kashmir would themselves decide the question of accession", the Indian troops being withdrawn and that these two assurances were "not merely a pledge to your Government but also to the people of Kashmir and the world."

On November 16, 1947, the Pakistan Prime Minister, Mr. Liaquat Ali Khan, in a Press statement made the first suggestion for reference of the dispute to the U.N. On November 19, 1947, in a telegram to Mr. Nehru he said that since "you are not prepared to have a discussion until those whom you call 'raiders' have left, I see no other way to a peaceful settlement except a reference of whole question to the U. N. O." He drew the attention of the Indian Prime Minister to his proposals made on November 16, and expressed the hope that he would agree "that in the present circumstances this is the only fair and peaceful settlement."

Mr. Nehru in his reply dated November 21, 1947 expressed doubts about the efficacy of the U. N. tackling the problem. Dealing with Mr. Liaquat Ali Khan's suggestions for the U.N. appointing representatives in Kashmir to put a stop to fighting and repression of Muslims ; setting up of an impartial administration in the State, and the U. N. undertaking a plebiscite, Mr. Nehru said that the U. N. had no forces at their disposal to stop the fighting ; Sheikh Abdullah's administration was impartial and India was ready for a plebiscite under U.N. auspices. He said he was also ready for a discussion any time. In another telegram sent on December 12, 1947, Mr. Nehru observed that it was not clear in "what other way except inviting U. N. observers to advise about plebiscite, U. N. help can be sought since Pakistan is not party to present struggle." Pakistan in its reply called for "an act of statesmanship to solve the dispute in the light of the basic realities of the situation and not by legal disputations as how Pakistan is a party to the dispute or how U. N. O. can be brought in."

On December 22, 1947 a demi-official letter was handed over by Mr. Nehru to Mr. Liaquat Ali Khan formally calling upon Pakistan to cease participation in attacks on Kashmir and deny the raiders access to, and use of, Pakistan territory, all military aid and supplies and other kinds of aid that might tend to prolong struggle. The letter indicated approach to the U. N. for the purpose. Pakistan in a reply sent on December 31, 1947, welcomed India's move to refer the matter to the U. N. as had been suggested by Pakistan on several previous occasions. It denied allegations made against Pakistan and brought counter-allegations against India which

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related to "the fraudulent accession of Kashmir to India ; a conspiracy on the part of India to undermine the very existence of Pakistan, widespread killing and repression of Muslims in India and Kashmir and illegal occupation by India of the States of Junagadh and Manavdar which had acceded to Pakistan". Pakistan said that the "entire ambit of India-Pakistan disputes should be the subject of investigation by the U.N. and not merely Kashmir which is but a sentence torn out of the context."

That brought to a close the direct negotiations between the two newly-created Dominions regarding Kashmir. On December 31, 1947 India sent a cable to the Security Council, through its representative at the U.N., making a complaint under Article 35 of the U.N. Charter. The cable was delivered on January 1, 1948 and on that day the Security Council became seized of the issue which has defied solution till now.

Important statements on the subject during this period were also made by Mahatma Gandhi who was constantly consulted by the Government of India in the matter. Mahatma Gandhi before partition described the Treaty of Amritsar as "a deed of sale and supposed that it would be dead on August 15 when the British who were the sellers (Gulab Singh being the buyer) withdrew." So far as the Accession of States to the dominions was concerned he "was firmly of the opinion that it was the rayots who should decide and not the rulers. British Government's was a paramountcy imposed. The real paramountcy inherently vested in the rayots. "He said Maharaja of Kashmir 'agreed with him that the will of Kashmiris was the Supreme law in Kashmir and Jammu'. After the State had become independent he denounced as 'shameful' the acts of Hindus and Sikhs in Jammu, killing their Muslim brethren.

In his post prayer speech in Delhi on October 30, 1947, Mahatma Gandhi observed "when the Maharaja in his distress wished to accede to the Indian Union the Governor-General could not reject his proposal. He and his Cabinet sent troops by air to Kashmir telling the Maharaja that the accession was provisional upon an impartial plebiscite being taken by the Kashmiris irrespective of religion." Later he pleaded for India and Pakistan mutually working out an amicable settlement with the assistance of their impartial countrymen.*

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Nehru's Cable to Attlee on Kashmir

*Text of telegram dated October 26, 1947 from Jawaharlal Nehru to the British Prime Minister, Clement Attlee.***

"For Prime Minister United Kingdom from Prime Minister India.

A grave situation has developed in the State of Kashmir. Large numbers of Afridis and other tribesmen from Frontier have invaded State territory, occupied several towns and massacred large numbers of non-Muslims. According to our information tribesmen have been equipped

*Tendolkar, D.G "Mahatma" vol 8, P. 79 & 229.
**Copy also cabled to Pakistan Prime Minister.

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with motor transport and also with automatic weapons and have passed through Pakistan territory. Latest news is that the invaders are proceeding up the Jhelum Valley road toward the valley of Kashmir.

2. We have received urgent appeal for assistance from Kashmir Government. We would be disposed to give favourable consideration to such request from any friendly State. Kashmir's Northern frontiers, as you are aware, run in common with those of three countries, Afghanistan, the Union of Soviet Socialist Republics and China. Security of Kashmir, which must depend upon control of internal tranquillity and existence of stable Government, is vital to security of India especially since part of Southern boundary of Kashmir and India are common. Helping Kashmir, therefore, is an obligation of national interest to India. We are giving urgent consideration to question as to what assistance we can give to State to defend itself.

3. I should like to make it clear that question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our view which we have repeatedly made public is that the question of accession in any disputed territory or State must be decided in accordance with wishes of people and we adhere to this view. It is quite clear, however, that no free expression of will of people of Kashmir is possible if external aggression succeeds in imperilling integrity of its territory.

4. I have thought it desirable to inform you of situation because of its threat of international complications.

———

Attlee's Plea For Restraint

Text of Attlee's message to the Pakistan Prime Minister, communicated by the High Commissioner for the United Kingdom in Karachi in a memorandum dated October 27, 1947.

"I have received message from Prime Minister of India stating that grave situation has developed in Kashmir. That tribesmen equipped with motor transport and automatic weapons entered Kashmir territory through Pakistan. That they have occupied several towns and have killed large numbers of non-Muslims, and that they are advancing on Srinagar. Mr. Nehru says that Government of India have received urgent appeal for assistance from Kashmir Government and that they are considering this appeal. He adds that he would like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India.

I have sent Mr. Nehru a reply saying that we have received no confirmed reports of the scale and importance of any incursions there may have been and begging him not to let his answer to this appeal take the form of armed intervention by the forces of India. I would also appeal to you to do everything possible to prevent armed intervention in Kashmir by Muslims from Pakistan, or by tribesmen seeking to pass through Pakistan-administered territory on their way to Kashmir. I hope that it will be possible for you to use your influence with any such who have

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Pakistan Archives

already entered Kashmir to return home. I am informing Mr. Nehru that I am making this appeal to you.

I also suggest for your consideration, as I am suggesting to Mr. Nehru, that it might be most useful step towards settlement of difficult question of Kashmir's future if it could be discussed by you, Mr. Nehru, and Maharaja of Kashmir at a meeting to be held as soon as possible at some suitable place.'

———

Nehru's "Stop Raiders" Appeal to Pakistan

Text of telegram dated October 28, 1947 from Nehru to Liaquat Ali Khan.

"For Mr. Liaquat Ali Khan from Jawaharlal Nehru."

I have communicated to you text of telegram I sent to Prime Minister, United Kingdom, regarding Kashmir situation. I have also sent you text of correspondence between Governor-General, India and Maharaja of Kashmir regarding accession of Kashmir State to Indian Union. I have sent a further message to Prime Minister, U.K., informing him of imminent peril to Srinagar and Kashmir from raiders and of action we have taken to give protection to people there. I want to invite your Government's cooperation in stopping the raiders entering Kashmir territory from Pakistan. These raids have already resulted in large-scale death and destruction and if they are not stopped immediately will lead to ruin of Kashmir. The consequences of success of such irresponsible raiders anywhere will be far-reaching all over India. Therefore, in interest of both Pakistan and India, such raids must be stopped. As raiders come across Pakistan territory it should be possible to stop them there. I wish to assure you that action Government of India has taken has been forced upon them by circumstances and imminent and grave danger to Srinagar. They have no desire to intervene in affairs of Kashmir State after raiders have been driven away and law and order established. In regard to accession also it has been made clear that this is subject to reference to people of State and their decision. Government of India have no desire to impose any decision and will abide by people's wishes, but those cannot be ascertained till peace and law and order prevail. Protection of Kashmir from armed raids thus becomes first objective and in this we trust we shall have your cooperation."

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Pakistan Version Of Case For Attlee

Text of telegram dated October 29, 1947 sent by the Pakistan Prime Minister to the British Prime Minister.

"I thank you for your message communicated by your High Commissioner in Karachi. The position here is that on early morning of 27th i.e the day after Mr. Nehru telegraphed to you, the India Government sent troops to Kashmir. This is culmination of a series of events which was briefly as follows:—

On October 2nd, and in reply to a remonstrance from Kashmir that Pakistan was not abiding by the Standstill Agreement regarding supply to

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them by Pakistan of essential commodities, I wired to Prime Minister explaining that failure of these commodities to reach Kashmir was due to dislocation of the communications due to disturbances and asuring him that we would do everything to ensure that Kashmir received its supplies. I also said that we were seriously concerned with the stories that armed Sikhs were infiltrating into Kashmir State and again pressed on him the necessity for representatives of Pakistan and Kashmir jointly to consider questions of supplies to the State and other questions. I received a reply to the effect that as Kashmir Government were dealing with disturbances caused by armed men infiltrating from Pakistan into Kashmir they were so busy that they could not discuss matters in dispute between us but they would do when things settled down. Nevertheless, we sent Shah, Joint Secretary of Ministry of Foreign Affairs, to Srinagar to decide things with Kashmir. The Prime Minister, however, refused to have any discussions with him and he had to leave. I also wired denying that armed men were allowed to infiltrate into Kashmir.

Then I telegraphically drew the attention of Kashmir Prime Minister to state of affairs in Poonch and on broder of Sialkot District where Muslims were being massacred by State troops. In his reply, dated October 15th, after denying these accusations the Prime Minister proposed that an impartial enquiry be made into whole affair in order to 'remove misunderstandings and restore cordial relations' and said that if this proposal were not accepted he had no option but to ask for assistance to withstand the aggressiveness of people on his border. He attributed the raid of which he complained and failure to supply commodities as steps to coerce Kashmir into acceding to Pakistan. I replied on October 18th again denying accusations of raids from Pakistan and pointing a case in which Kashmir troops attacked a village in Pakistan and in an encounter with police killed a Head Constable. I said I was apprehensive that tactics followed in East Punjab of massacring Muslims and then driving them out were to be followed in Kashmir. I protested against threat to call in assistance from outside the only object of which could be to suppress Muslims to enable Kashmir to accede to India by a *coup d'etat.* In conclusion I agreed to his proposal for an impartial enquiry and asked him to nominate his representative when we would immediately nominate ours.

On October 18th Prime Minister of Kashmir telegraphed me repeating the charges of failure to send supplies according to Standstill Agreement and of allowing armed men to infiltrate into the State. He also complained of articles in Pakistan newspapers and telegrams from private individuals He drew the conclusion that Pakistan's attitude was unfriendly, even 'inimical' and ended by saying that unless improved he would be justified in asking for friendly assistance to prevent trespass on funda-mental rights of State.'

This telegram was also repeated to Governor-General and published in Press. On October 20th the Governor-General telegraphed to the Maharaja, summarising the telegrams between the two Governments and pointing out that threat to call in outside help amounted almost to an ultimatum and showed that real aim of Kashmir Government's policy'is to seek an opportunity to join Indian Union through a *coup d'etat*''. He endorsed Kashmir Government's proposal for an enquiry made in their telegram of October 15th and accepted by Pakistan in their telegram of

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October 18th and said that impartial inquiry as also the proposal of Pakistan Government for a meeting between representatives of two States was an urgent necessity. Finally he invited Maharaja to send his Prime Minister to Karachi to discuss recent developments in a friendly way. No answer was received to his telegram.

There is no doubt that State troops first attacked Muslims of Poonch. Women and children took refuge in Pakistan and burning villages could be seen from our border. There is no doubt that later they set out to massacre Muslims of Jammu. The Brigadier-in-Command of Jammu-Sialkot border admitted to our Brigadier that his orders were to drive out Muslims from a three-mile wide belt and that he was doing this with automatic weapons and mortars. There is no doubt that armed mobs headed by State troops invaded Pakistan on several occasions. After one of these raids 1,760 dead bodies of Muslims were counted near one of our villages. There are now about one lakh of Muslim refugees from Jammu in West Punjab.

The refusal of Kashmir to send a representative to discuss things and to nominate a representative for an impartial enquiry and their failure to reply to Governor-General's invitation to Prime Minister to come, and their deliberate causing of disturbances in their State by employing their troops to attack Muslims, and the fact that by 9 a.m. on morning of day on which Kashmir's accession was accepted Indian air-borne troops had landed in Srinagar clearly show the existence of a plan for accession against the will of people possible only by occupation of country by Indian troops. This plan is clear from the start.

Kashmir's action cannot be based on action of Pathans who infiltrated into Kashmir as they are not reported to have done so till October 22nd and correspondence with State ceased on October 20th. All that could be done short of use of troops which would have violently disturbed Frontier was done to prevent their going to Kashmir.

In these circumstances Government of Pakistan cannot recognise accession of Kashmir to Indian Union achieved as it has been by fraud and violence.

I welcome your proposal that I, the Prime Minister of India and Maharaja of Kashmir should meet to discuss matters. A meeting for this purpose is being held in Lahore tomorrow attended by Governor-Generel and Prime Ministers of Pakistan and India and I hope by Maharaja and his Prime Minister. I hope we will reach a satisfactory conclusion."

Liaquat's Reply To Nehru

Text of telegram from the Pakistan Prime Minister to the Indian Prime Minister dated October 30, 1947.

"For Pandit Nehru from Liaquat Ali Khan.

I have received your telegrams including that of October 28th to which I reply. The position is that Sikh attacks on Muslims in East Punjab in August greatly inflamed feeling throughout Pakistan and it was only

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with greatest difficulty that Pathan tribes were prevented from entering West Punjab to take revenge on Hindus and Sikhs there. Later when Muslims in Poonch were attacked and those in Jammu massacred by mobs led by Kashmir State forces and when it was evident that there was to be a repetition in Kashmir of what happened in East Punjab it became impossible wholly to prevent tribes from entering that State without using troops who would have created a situation on the Frontier that might well have got out of control.

Your recent action of sending troops to Kashmir on pretext of accession has made things infinitely worse. The whole of the Frontier is stirring and feeling of resentment among tribes is intense. The responsibility for what is happening is entirely yours. There was no trouble in Poonch or Jammu till State troops started killing Muslims. All along Kashmir Government has been in close touch with you. At the same time they ignored or refused our offers of friendly discussions. On October 2nd I suggested that both Pakistan and Kashmir should appoint representatives to discuss supplies to Kashmir and mutual allegations of border raids. The Prime Minister of Kashmir replied he was too busy. When in spite of this we sent Shah, Joint Secretary of Ministry of Foreign Affairs and States, to Kashmir the Prime Minister refused to discuss with him. On October 15th the Prime Minister of Kashmir threatened that unless we agreed to an impartial inquiry into what was happening he would ask for assistance to withstand aggression on his borders. We immediately agreed to an impartial inquiry. Since then no more has been heard from Kashmir of this proposal.

The Pathan raid on Kashmir did not start till October 22nd. It is quite clear, therefore, Kashmir's plan of asking for Indian troops—and it could hardly have been unilateral—was formed quite independently of this raid and all evidence and action taken shows it was pre-arranged. It would seem rather to have been made after failure of their troops to suppress people of Poonch and in anticipation of reaction which they expected to their massacre of Muslims in Jammu.

I, in my turn, appeal to you to stop the Jammu killings which still continue. Yesterday West Punjab was again invaded by a well armed mob who after a fight with villagers retreated leaving two Gurkha soldiers in uniform dead behind them. As long as this sort of thing continues, passions are bound to become further inflamed."

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Pakistan's Cable To U.K.

Text of telegram from the Pakistan Prime Minister to the British Prime Minister sent on October 30, 1947:

"Please refer our telegram of yesterday conveying that a meeting attended by Governor-General and Prime Ministers of Pakistan and India was to be held today at Lahore to discuss Kashmir issue. This meeting could not be held owing to unfortunate illness of Mr. Nehru. It is hoped we will be able to hold it on Saturday.

In the meantime resentment among the tribes of North-West Frontier is rapidly growing and a very dangerous situation indeed may arise. To

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attempt to stop the tribes going to Kashmir now would involve us in a major Frontier war. I have wired to Mr. Nehru to this effect pointing out that tribal movement began as the result of attacks on Poonch Muslims and massacre of Jammu Muslim s by the State troops and that the present situation is due to India's action in sending troops to Kashmir. The killing of Muslims in Jammu and raids by State troops into Pakistan continue. The situation here and in N.W.F.P. is extremely critical."

Nehru's Denial of Pakistan Charges

Text of telegram dated October 31, 1947 from the Indian Prime Minister to the Prime Minister of Pakistan :

"Your telegram No. 368-G. dated October 30th. I have repeatedly expressed to you my sentiments regarding the cycle of retaliation which has plunged West and East Punjab in tragedy. Both in public and private I have condemned atrocities, irrespective of community of perpetrators ; Sikh, Hindu or Muslim. If Hindus and Sikhs have killed or driven out Muslims in any part of Kashmir I condemn their action without reserve. I find it impossible, however, to accept either your version of causes and course of attack on Kashmir or baseless suggestion that we have sent troops to Kashmir 'on pretext of accession'. We are perfectly willing to have all events during last 15 months investigated to find out what have been basic causes and on whom blame rests. What has happened in Kashmir stands apart and must be judged as such more specially in view of imminent danger of widespread disaster which Kashmir valley has had to face which would have the most far-reaching consequences in regard to relations between India and Pakistan.

2. The Government of India entirely agree that no raids from one territory to another should take place and they must be stopped by all means at our disposal. It is patent that they have had nothing to do even remotely with occurences in or near Kashmir State till they sent their troops to Srinagar on October 27th. Before accession Kashmir was not our responsibility even though we were greatly interested in its future. We were not consulted by Kashmir Government about any steps they may have taken or any correspondence with you. Our knowledge of what occurred then was derived largely from statements appearing in the Press. From these statements it appears that Kashmir Government's account is materially different from what you have given and according to them raids have taken place from West Punjab into Jammu Province. As a matter of fact today a considerable part of Jammu Province has been occupied by raiders from West Punjab. These raiders are provided, according to reports, with most modern weapons including flame throwers. In these circumstances it is curious to state that aggression was from Kashmir State.

3. No impartial person could regard military operations which for some weeks have been in progress against Kashmir as other than well-organised, well-planned and the result of most careful preparation. These operations, certainly did not start on October 22nd. What started on October 22nd was raid from North-West Frontier Province. Its timing, mobility and speed are more suggestive of a concerted link between the operation which has been in progress on Kashmir's Western borders than

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of a sudden tribal eruption inspired by communal happenings in Punjab. In addition to this we have reliable information that regular Pakistan troops in large numbers were concentrated near the Kashmir border at Kohala as on Jammu border and that they were prepared to enter Kashmir in wake of raids.

4. You say that all along the Kashmir Government has been in close touch with us. You also say that Kashmir's plan of asking for Indian troops was formed quite independently of recent raids. Indeed you even suggest that request for Indian troops was inspired by us. I repudiate both statements of alleged fact and insinuation. Until the Pathan raid started we had no request from Kashmir State for military aid and question was never considered by us. Some weeks ago we were told by Kashmir Government that essential supplies had been stopped by Pakistan Government and we were requested to send some of these essential supplies. A request was also made for arms which was referred, in common with requests from other States, to our States and Defence Ministries. This was sanctioned but as a matter of fact no arms were sent to them at all as this matter was not considered very urgent. It was at 11 p.m. on October 24th that an urgent and specific request was made to us for the first time for troops to be sent. We considered this on the 25th in our Defence Committee and again on 26th morning. In view of imminent peril to valley and possibility of large-scale massacres a decision was arrived at regarding accession and to send air-borne troops the next day, 27th October. You will appreciate that it would have been easy for us to send these troops earlier if we had intended doing so and thus stop the raiders at an early stage of their career along Jhelum Valley road. Both military and other competent opinion has criticised us for being dilatory. At no time did we consider the question of sending troops to Kashmir previous to October 25th. The earlier visits of Kashmir officials were concerned with supplies and no question of giving military help arose.

5. Kashmir's accession to India was accepted by us at the request of the Maharaja's Government and the most numerously representative popular organisation in the State which is predominantly Muslim. Even then it was accepted on condition that as soon as the invader has been driven from Kashmir soil and law and order restored the people of Kashmir would decide the question of accession. It is open to them to accede to either Dominion then. Had we desired a pretext either for Kashmir's accession or for sending our troops there we should not have waited till large areas of Kashmir and parts of Jammu province had been given to fire and sword and Srinagar itself was in peril of capture by the raiders with all its horrors.

6. I have no doubt that you realise that the raiders from the Frontier Province, or along the Murree road come from Pakistan territory and it is the easiest thing in the world to stop them at the two bridges which connect Pakistan territory to Kashmir. They were not so prevented and their equipment and arms, including artillery and automatic weapons, bear witness to every help being given to them. We are credibly informed that regular officers of the Pakistan Army are advising the raiders. Even now it should be easy for your Government to stop the passage of these raiders or their supplies to Kashmir territory completley.

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7. Our assurance that we shall withdraw our troops from Kashmir as soon as peace and order are restored and leave the decision regarding the future of this State to the people of the State is not merely a pledge to your Government but also to the people of Kashmir and to the world.

8. You lay on us the responsibility for what is happening. I should have thought that this could more appropriately and fairly be placed on those who have been attacking and invading. To accuse us of provocation and aggression, now all that we have done is to go to the rescue of people threatened with loss of life, property and honour, is a similar perversion of truth and reason. It gives me no pleasure to write to you in this strain. I am convinced that if Pakistan and India are to live in peace leaders on both-sides must have trust in one another and act with understanding and re-straint. Mutual mistrust and recrimination can only lead to consequences which would be to the advantage of neither India nor Pakistan. I have done everything possible to think and act in this spirit. It was not possible for me to refuse the request of the Kashmir Government to help them to prevent the raiding bands from committing massacres, arson and loot and ruining Kashmir. I should have thought that it was equally to your advantage to prevent this and hence my appeal to you to stop these raids at the source.

9. I have no knowledge of the raid you refer to in Jammu in your last paragraph. I am enquiring about it. We shall certainly do our utmost to stop all raids and I appeal to you to do the same. I understand, however, that there is concentration of Pakistan troops on the Jammu border."

NEHRU'S PLEDGE

Extract From Nehru's Broadcast on Nov. 2, 1947

"We decided to accept this accession and to send troops by air, but we made a condition that the accession would have to be considered by the people of Kashmir later when peace and order were established. We were anxious not to finalize anything in a moment of crisis, and without the fullest opportunity to the people of Kashmir to have their say. It was for them ultimately to decide.

'And here let me make clear that it has been our policy all along that where there is a dispute about the accession of a State to either Dominion, the decision must be made by the people of the State. It was in accordance with this policy that we added a proviso to the Instrument of Accession of Kashmir.

'We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given, and the Maharaja has supported it not only to the people of Kashmir but to the world. We will not, and cannot back out of it. We are prepared when peace and law and order have been established to have a referendum held under international auspices like the United Nations. We want it to be a fair and just reference to the people, and we shall accept their verdict. I can imagine no fairer and juster offer."

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Jinnah's Three-Point Peace Plan

Text of telegram dated November 4, 1947 from the Pakistan Prime Minister to the Prime Minister of the United Kingdom :

I thank you for your telegram No. 327 of October 31st and further message of same date regarding situation in Kashmir. The conference which was arranged to be held in Lahore on November 1st did not take place because suddenly on morning of November 1st Lord Mountbatten telephonically informed Governor-General of Pakistan that Pandit Nehru was not well enough to go to Lahore. That, therefore, he alone was coming to attend the meeting of Joint Defence Council of which he is Chairman. That he hoped to take opportunity of meeting the Governor-General of Pakistan. That since he was only a constitutional Governor-General he could not negotiate a settlement.

In this way the idea of a conference has receded into background so far as Indian Dominion is concerned for, if India Government wanted it the Deputy Prime Minister could have come in place of Pandit Nehru.

The two Governors-General met at Lahore and had not a long discussion on November 1st. The upshot of discussion was that Governor-General, Pakistan, made following proposals to Governor-General, India, for acceptance of India Dominion:—

'(1) To put an immediate stoppage to fighting the two Governors-General should be authorised and vested with full power by both Dominion Governments to issue a proclamation forthwith giving forty-eight hours' notice to the two opposing forces to cease fire. Governor-General, Pakistan, has no control over forces of Provisional Government of Kashmir or tribesmen engaged in fighting but he will warn them in clearest terms that if they do not obey order to cease fire immediately the forces of both Dominions will make war on them.

'(2) Both forces of India Dominion and tribesmen to withdraw simultaneously and with utmost expedition from Jammu and Kashmir State territory.

'(3) With sanction of two Dominion Governments the two Governors-General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State and arrange for plebiscite without delay under their joint control and supervision.'

Lord Mountbatten was requested to place these proposals immediately before India Dominion and to get their acceptance of them. Governor-General, Pakistan, undertook to do likewise. Governor-General, Pakistan, is still awaiting a reply from Governor-General, India.

On evening of November 2nd, a day after return of Lord Mountbatten to Delhi, Pandit Nehru broadcast what he calls decision of India Government and it is most unfortunate that he should have thought fit to do so in the manner and language he has used. Leaving aside the highly provocative attacks on Pakistan Government, the proposal he has put forward is full of most dangerous potentialities and will not bring peace to Kashmir. As long as forces of India Dominion are on Kashmir soil the struggle of Kashmir people will go on. What India Government call the restoration of law and order is no more than an attempt at oppressive killing, terror and driving

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out Muslim population of Jammu and Kashmir until, like East Punjab and Indian States in East Punjab, the composition of population is entirely changed. Pandit Nehru's broadcast indicates clearly that India Government intend to complete their occupation of Jammu and Kashmir and get entire control over its territory under superficial attractive slogan that ultimately the fate of Kashmir will be decided by people of Kashmir. Pandit Nehru has even avoided use of word plebiscite and has spoken of referendum which might mean anything. After India Government have established complete mastery over territory of Jammu and Kashmir the holding of a plebiscite or referendum will be purely a farce.

In the meantime feelings throughout West Pakistan and Tribal territory are running very high and will soon get beyond all control. After ghastly massacres in East Punjab it is impossible to expect people to witness patiently a tragedy on an equal scale in Jammu and Kashmir. Very little news of Jammu is allowed to reach outside world but situation there is extremely grave. According to our information thousands of Muslims are being massacred every day. In Jammu city itself 90,000 Muslims are bottled up and are in imminent peril of their lives.

The problem is so inflammatory and dangerous that it requires an immediate solution. All this was fully impressed upon Governor-General, India, in talk that Governor-General, Pakistan, had with him. The Pakistan Government are convinced that the only solution which will avoid further bloodshed and bring peace to Jammu and Kashmir, get a free verdict of people of State, and restore friendly relations between two Dominions is that proposed by Governor-General, Pakistan. Immediate action essential. Every day that passes counts and makes situation more and more dangerously grave. I once more urge you to take immediate action without a moment's delay or else the consequences will be beyond control and most disastrous having much wider repercussions not only in this sub-continent but throughout world."

———

Nehru's Reiteration of Plebiscite Pledge

"Text of telegram dated November 4, 1947 from Nehru to Liaquat Ali Khan:

"Following for Liaquat Ali Khan from Jawaharlal Nehru.

I have received no reply yet from you to my telegram Primin-255 dated October 31st regarding Kashmir.

Reference last paragraph of your telegram No. 368-G dated October 30th, I have enquired from Prime Minister, Kashmir, about alleged raid. His reply sent after investigation is that there was no raid from Kashmir side into West Punjab but there was a raid from West Punjab side into Jammu Province. This was resisted by villagers and State troops and two Gurkha soldiers were killed in Kashmir territory. Apparently their bodies were dragged away by raiders into West Punjab.

I am informed in Jammu Province the situation is well in hand except in areas under occupation of raiders who are continuing their depredations.

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Kashmir Government is protecting Muslims in Jammu and border would be quite safe but for raiders from West Punjab.

I have repeatedly requested you to stop raiders from entering Kashmir territory from Pakistan, both in Jammu Province and along Jhelum valley road. Our information is that these raiders are being helped by high Pakistan officials. Indeed Prime Minister of N.W.F.P. has openly declared that these raiders should be helped. We have definite information that senior officials of Frontier Province are giving every assistance to these raiders. We put it to you that this is not only against your own declaration but also is a breach of international law. We trust that you will take immediate steps and not only stop further raiders from coming into Kashmir State territory but order withdrawal of all those who are already in Kashmir State.

We are anxious to restore peaceful conditions in Kashmir and we invite your cooperation again to this end. This can only be done after withdrawal of raiders from State territory. As soon as raiders are withdrawn there would be no necessity for our keeping our troops there.

I wish to draw your attention to broadcast on Kashmir which I made last evening. I have stated our Government's policy and made it clear that we have no desire to impose our will on Kashmir but to leave final decision to people of Kashmir. I further stated that we have agreed on impartial international agency like United Nations supervising any referendum.

This principle we are prepared to apply to any State where there is a dispute about accession. If these principles are accepted by your Government there should be no difficulty in giving effect to them."

———

Pakistan Request for Reply to Jinnah's Proposals

Text of telegram dated November 6, 1947 from Liaquat Ali Khan to Nehru.

"Following for Pandit Nehru from Liaquat Ali Khan.

Your telegram No. Primin-255 dated October 31st, 270 and 285 dated November 4th regarding Kashmir.

In broadcast I made on evening of November 4th I gave a review of Kashmir situation and of events leading up to it. It is hardly necessary for me to go over the whole ground again or reply to your allegations in detail. But I must say that you are singularly misinformed about position in Jammu and Kashmir. In particular, your account of border incidents in Jammu and of conditions in Jammu is so contrary to facts that I can only conclude that Jammu and Kashmir Government are sedulously keeping truth away from you. Let me repeat that it is the Muslims in Jammu who are being massacred by thousands every day with active assistance of State police and military who are also organising raids into West Punjab. When Kashmir Government made offer of an impartial enquiry into these border incidents we accepted it at once. The Kashmir Government never broached the subject again. Your other allegations and insinuations are equally devoid of foundation and I emphatically repudiate them.

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A day before your broadcast indicating policy of your Government, a long discussion took place between Lord Mountbatten and the Quaid-i-Azam as a result of which the following proposals were put before Lord Mountbatten for communication to you and your Government :—

'(i) To put an immediate stop to fighting the two Governors-General should be authorised and vested with full powers by both the Dominion Governments to issue a proclamation forthwith giving 48 hours' notice to two opposing forces to cease fire. We have no control over forces of provisional Government of Kashmir or tribesmen engaged in fighting but we will warn them in clearest terms that if they do not obey order to cease fire immediately, forces of both Dominions will make war on them,

'(ii) Both the forces of Indian Dominion and tribesmen to withdraw simultaneously and with utmost expedition from Jammu and Kashmir State territory,

'(iii) With the sanction of two Dominion Governments the two Governors-General to be given full powers to restore peace, undertake administration of Jammu and Kashmir State and arrange for plebiscite without delay under their joint control and supervision.'

Lord Mountbatten promised to let me know your Government's reply to these proposals but we have heard no more about them. Your Government's policy is vague. I still ask your Government to let me have your reply to our definite proposals."

———

British Appreciation Of Pakistan Proposals

The text of letter dated November 7, 1947 from the U. K. High Commissioner in Karachi to the Secretary, Ministry of Foreign Affairs and Common-wealth Relations :

"The following message has been received from the Prime Minister of the United Kingdom for communication to the Prime Minister of Pakistan.

'Many thanks for your message dated 4th November about Kashmir, No. 376.

2. As indicated in a recent message to the Prime Minister of India, there is, unfortunately, a great lack of mutual trust between the Governments of Pakistan and India. The same applies to the majority of their supporters. I am sure that this makes it even more essential that, whatever the difficulties, continuous and constant contact should be retained between the two Governments.

3. I think that the proposal for the solution of the Kashmir trouble put forward in your message makes a promising starting point for discussions. As I understand the broadcast made by the Prime Minister of India on November 2nd, he gave two undertakings which seem to be in conjunction with your own suggestions. First, he undertook that the Indian

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Forces would be withdrawn from Kashmir as soon as order is restored. Second, he undertook that the will of the people should be ascertained, and he proposed that this should be done under the authority and supervision of the United Nations. No doubt any consultation of the people will be difficult to carry through. But I cannot believe that Mr. Nehru's pledges have the sinister implications which you suggest. It seems to me, therefore, that both you and the Prime Minister of India have put forward proposals which, although they differ in form, are based broadly on the same principles.

4. I hope therefore that there is now a starting point for discussions. While I fully recognise that this is difficult matter, not only because of the passions aroused on both sides but from the very nature of the problem of disengaging forces that have begun to fight, I can see little hope for relief of the present grave situation, which might easily become much worse, unless the two Governments do get together and try to reach accord on a mutually agreed plan of action.

5. I am hoping very much that I may have news of a further early meeting between you and the Indian Prime Minister.

6. I was very sorry to hear of your illness. I send you my best wishes for your recovery.'

May I ask you to be good enough to transmit this message urgently to the Prime Minister by cypher telegram.'

———

Nehru's Counter-Proposals

Text of telegram dated November 8, 1947 from the Prime Minister of India to the Prime Minister of Pakistan :

"Your telegram No. 384-G dated the 6th November about Kashmir was received to-day.

2. I regret that I have to disagree completely with your account of what has happened or is happening in Jammu and Kashmir State. We have received and are receiving full information from our own representatives in both Jammu and Srinagar and this convinces us that your information is wholly wrong.

3. I regret also the tone and the content of your broadcast of the 4th November regarding Kashmir which indicated no desire to find method of the settlement. It was merely an indictment which has no relation to the fact.

4. In the last paragraph of your telegram you say that Lord Mountbatten promised to let you know the views of the Indian Government to the proposals discussed between the two Governors-General but that you have heard no more about them. On this point there seems to have been a misunderstanding. Lord Mountbatten, on his return from Lahore, gave me full account of his talk with Mr. Jinnah and in particular of the two important suggestions which had been discussed, namely :—

(*i*) the withdrawal of Indian Dominion troops and men from Kashmir and,

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(*ii*) Holding of a plebiscite at the earliest possible date.

As regards the first proposal, Lord Mountbatten told me that Mr. Jinnah desired that withdrawal of the Indian Dominion troops and tribesmen should be made simultaneously but that he (Lord Mountbatten) had pointed out that it was clearly impossible for the Indian troops to withdraw from Kashmir valley until the raiders had left Kashmir soil and law and order had been restored in Kashmir.

Lord Mountbatten had also made it quite clear to Mr. Jinnah that the Government of India had no desire to retain troops in Kashmir for a moment longer than was necessary. As regards the second point, Lord Mountbatten reported that Mr. Jinnah had expressed the views that there was no hope of a fair plebiscite under the present Kashmir authorities. To meet this point Lord Mountbatten had suggested that it should be conducted under the auspices of UNO. Mr. Jinnah had put forward the counter-proposal that two Governors-General should be given plenary powers to settle the matter. Lord Mountbatten had pointed out that it would be constitutionally improper for him to undertake this duty.

5. On the very day that I had this talk with Lord Mountbatten I made broadcast in which the views of the Government of India on both these proposals were stated plainly and I followed it up with a telegram to you indicating that they might form the basis of discussion at our next talk. It is thus clear beyond any shadow of doubt that we did, in fact, put forward definite proposals as a basis for discussion between us as soon as possible after Lord Mountbatten's return from Lahore.

6. I would have been glad to explain to you personally at the meeting that had been arranged for to-morrow the proposals we had put forward and the reasons for our inability to accept the proposals made to Lord Mountbatten by Mr. Jinnah. But since unfortunately you are unable to come, I must let you have my views to uphold them. They are as follows :—

7. As regards your proposals one and two, a number of well-armed raiders have entered Kashmir to accompanyment of massacre, arson and loot. Our troops have been sent there to drive out these raiders and protect Kashmir. So long as these raiders remain there, and law and order have not been established, our troops must discharge their duty. Afterwards they will be withdrawn, as I have already undertaken.

8. The raiders are either under your control or they are not. If they are under your control you should withdraw them and, in any event, stop them coming through Pakistan territory into Kashmir. If they are not under your control and you can do nothing to stop them, then, surely, we are entitled to deal with them as we think best.

9. As regards proposal number three in your telegram of November 6th, we entirely endorse Lord Mountbatten's view (vide paragraph No. 7 above).

10. It will thus be seen that our proposals which we repeatedly stated are :—(1) that Government of Pakistan should publicly undertake to do their utmost to compel the raiders to withdraw from Kashmir ; (2) that Government of India should repeat their declaration that they will withdraw their troops from Kashmir soil as soon as raiders have withdrawn and law and order are restored ; (3) that Governments of India

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and Pakistan should make a joint request to U. N. O. to undertake a plebiscite in Kashmir at the earliest possible date.

11. The above conclusions relate only to Kashmir, but it is essential, in order to restore good relations between the two Dominions, that there should be acceptance of principle that, where Ruler of a State does not belong to community to which the majority of his subjects belong, and where the State has not acceded to that Dominion whose majority community is same as State's, the question whether State has finally acceded to one or other Dominion should be ascertained by reference to the will of people.

12. The Major-General commanding our forces in Jammu and Kashmir has been given the most explicit orders to do everything in his power to ensure that no victimisation of any community is permitted."

———

Pakistan Invitation To Nehru

Text of telegram dated November 10, 1947 from the Pakistan Prime Minister to the Prime Minister of India :

"For Pandit Jawaharlal Nehru from Liaquat Ali Khan.

I have received your telegram No. 304 dated November 8th regarding Kashmir and have also had an account of your discussions with Sardar Abdur Rab Nishtar and Mohammed Ali. I have also seen draft agreement prepared by Lord Ismay, Menon and Mohammed Ali. I agree with you that early settlement of Kashmir question is essential to restore good relations between the two Dominions. Indeed every effort must be made to remove all causes of friction. For this purpose a very early meeting between us is necessary.

If I had been fit enough to travel I should have come to Delhi but, unfortunately, I am still confined to bed. I, therefore, invite you to come to Lahore at an early date convenient to you for a discussion of outstanding questions and hope that you will be able to accept this invitation."

———

Nehru's Two Telegrams

Text of two telegrams sent by the Indian Prime Minister to the Prime Minister of Pakistan on November 13, 1947 :

1. 'For Liaquat Ali Khan from Jawaharlal Nehru.

On return from Kashmir I have received your telegram No. 695-G dated November 10th. I am surprised to see reference to some draft agreement. There is no such thing to my knowledge, but some kind of a formula for discussion was placed before me and I was told by Menon that he did not agree with parts of it. Lord Ismay also informed me that he did not think it feasible. When I saw it I made it clear to Mohammed Ali that we could not possibly consider it.

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An essential preliminary is complete withdrawal of all raiders and invaders into Kashmir territory from Pakistan. We cannot withdraw our troops from Kashmir, or cease taking precautionary measures, till Kashmir is free from these raids and there is no chance of further attack. Already Kashmir State has suffered greatly. My recent visit to Kashmir brought home to me the urgent necessity of every action being taken by us to drive away every single raider from State territory. The acts of vandalism that they have committed in Kashmir shocked me beyond measure. No organised authority can permit such savage behaviour in its territory. Hospitals, convents, churches, libraries, shops, in fact every place was ruined and looted. I saw large numbers of Muslim women with their ears torn because ear-rings had been pulled out. The population of Kashmir valley which as you know is chiefly Muslim complained bitterly of this outrageous behaviour and begged us to continue to protect them We cannot leave them in the lurch."

2. News came yesterday of sack and large-scale massacre at Rajori in Jammu Province by these raiders. We are going into these areas in Jammu Province to rid the people of this scourge.

During my stay in Kashmir our military officers placed before me numerous instances indicating the complicity of Pakistan Army soldiers in this invasion. I put it to you that the help given by Pakistan authorities to this barbarous raid is an act which must be resented very deeply by us and by the people of Kashmir. In order to clear up these charges against Pakistan authorities and Army, it is desirable from your point of view as well as ours, to have a thorough enquiry into this matter that is what part the North-West Frontier Province Government, or civil officers, or Army of Pakistan have played in helping this raid into Kashmir.

Shiekh Mohammad Abdullah is at present the head of the Kashmir administration and anything relating to Kashmir must necessarily have his approval and consent.

I would be glad to meet you to discuss these and other matters but for the next few days I am completely tied up with important meetings of Congress Working Committee and All India Congress Committee ; the Constituent Assembly follows immediately after. Our meeting I hope would be helpful, but it can only bear results when all raiders have been driven out of Kashmir and Pakistan Government had declared its firm policy to the exclusion of these raiders away from Kashmir."

———

Pakistan Proposal for Reference of Kashmir Case to U. N.

The text of telegram dated November 19, 1947 from the Prime Minister of Pakistan to the Prime Minister of India :

"Your telegram PRIMIN-338 dated November 13th regarding Kashmir. If you will see document which you state was placed before you, you will find that it is headed 'Draft Agreement.' This draft agreement was prepared by Lord Ismay, Menon and Mohammed Ali and represented conclusions of a solution even though all or any of them might

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have doubts whether two Governments would accept it. Since you do not agree with it there is nothing more to be said about it.

You have mentioned certain instances of destruction of life and property. No one could condemn them more severely or regret them more than I do. Such acts must be condemned by every right-thinking man wherever they occur. But I am pained to see that you appear to have taken no action regarding atrocities which are being perpetrated on Muslims of Jammu and Poonch. I have drawn your attention repeatedly to large-scale massacres of Muslims and to abduction of women. The brutality and cold-blooded murders and crimes against women of which Dogra troops of Indian Union have been guilty in Jammu and Poonch are of most heinous kind. The thousands of Muslims who are pouring into Pakistan from Jammu and Poonch tell tales of woe too horrid to be repeated. Your Government appears to be completely indifferent to this murder, rape, abduction, loot and arson, the only purpose of which is to liquidate entirely the Muslim population of the State.

I repudiate emphatically the insinuation in your telegram that Pakistan Army authorities are giving help to so-called raiders into Kashmir. On contrary, we have plenty of evidence that soldiers of Indian Union and of States that have acceded to Indian Union have been engaged in raids into Pakistan territory. I suggest you might appropriately have an enquiry into conduct of these soldiers.

I notice that you are not prepared to have a discussion until those whom you call raiders have been driven out of Kashmir, and also that anything relating to Kashmir must have approval and consent of Sheikh Mohammad Abdullah. This is hardly a constructive approach to Kashmir problem. In view of stand you have taken I see no other way to a peaceful settlement except a reference of whole question to U. N. O. I sent you a copy of Press statement I issued on November 16th in which I have made this proposal. I hope you will agree that in the present circumstances this is the only fair and peaceful solution."

———

Nehru's Doubts About U. N.

Text of telegram dated November 21, 1947 from the Prime Minister of India, to the Prime Minister of Pakistan :

"Your telegram No. 404 dated November 19th. I have nothing to add to what I have already said regarding the so-called agreement in my telegram N. 338 dated November 13th. I have been assured by the parties concerned that this was no agreement at all but the points noted down for discussion.

2. Immediately after accession of Kashmir State to India we were entirely occupied militarily and otherwise in Kashmir valley and we were not in touch with Jammu situation. We came to learn later that two convoys of Muslims had been brutally attacked in Jammu. We took immediate steps to prevent evacuation of Muslims from Jammu and to protect them there. Another convoy had started already but this was guarded by our troops and when this was attacked troops inflicted very heavy

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casualties on attackers, killing 153 of them and wounding nearly a hundred and capturing 500 of them. Since then there has been no evacuation, no convoys, and no attacks. We have issued strictest possible instructions to Commander of our Forces that they should do everything posible to protect Muslims in Jammu and these orders have been carried out with success during last fortnight. We deeply regret the attacks on Muslim convoys early in November and heavy casualties suffered by them. We should like to point out, however, that no troops of Indian Union have been guilty of offences that you attribute to them. They have effectively protected Muslims. It appears that the attacks on Muslim convoys were made chiefly by non-Muslim refugees.

3. Sheikh Abdullah has visited Jammu recently and taken effective steps there to afford safety and security to residents.

4. The Poonch area, according to information available to us, has been overrun by raiders, and garrisons of State troops are mostly isolated and besieged. It is difficult to understand, therefore, how local Muslim population in this area could be victimised by non-Muslims.

5. We are quite sure that the soldiers of Indian Union Forces in Kashmir have afforded protection to Muslims according to strict directions; or have been engaged in fighting raiders.

6. As regards troops of States that have acceded to Indian Union, some of these were sent to Kashmir State but they arrived after attacks on Muslims convoys referred to above. There has been no allegation to our knowledge that they have participated in attack on Muslims and indeed they have not been physically in a position to do so.

7. I should like to draw your attention to certain resolutions passed recently by Indian Congress Committee in Delhi defining the policy to be pursued in regard to migration of population, refugees etc. These resolutions represent generally the policy of our Government.

8. Your statement that we are not prepared to have discussion until raiders have been driven out of Kashmir must be based on some misunderstanding. We are ready for a discussion at any time. All that I have said, and would repeat, is that a settlement of Kashmir issue cannot take place unless raiders are made to leave Kashmir State territory.

9. I must express my great regret at the remark you have made in your Press statement about Sheikh Abdullah. I regard him as a man of high integrity and patriotism. You know well his great influence in Kashmir. All communities look up to him but more specially and naturally the Muslims of Kashmir. He has faced very difficult situation with remarkable courage and ability. He is now head of Kashmir administration and undoubtedly represents in very large measure the popular will of Kashmir. It would be improper in every way for us not to consult him in any matter relating to Kashmir State.

10. The specific suggestions regarding reference to United Nations in your Press statement are:—

(1) "U. N. O. should immediately appoint representatives in Jammu and Kashmir in order to put a stop to fighting and to repression of Muslims in State". Since United Nations have no forces at their disposal we do not see how they can put a stop

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to fighting or to alleged repression of Muslims. This can only be done by an organised military force and is being done by our troops. The fighting would also stop as soon as raiders were made to withdraw and I have repeatedly asked your co-operation in stopping transit and supplies to raiders through Pakistan territory.

(ii) "To set up an impartial administration of the State." It is not clear to me what U. N. O. can do in the present circumstances in Kashmir till peace and order have been established. We are convinced that Sheikh Abdullah's administration is based on will of people and is impartial. Anyone who goes to Kashmir and sees things for himself can appreciate this. Moreover we have pledged that so long as our forces are in Kashmir protection of all sections of community will be their first and sacred duty. This duty will be discharged without fear or favour.

(iii) "To undertake the plebiscite under its direction and control for the purpose of ascertaining the free and un-fettered will of people of State on question of accession." I have repeatedly stated as soon as the raiders have been driven out of Kashmir or have withdrawn and peace and order have been established, Kashmir should decide question of accession by plebiscite or referendum under international auspices such as those of United Nations. It is very clear that no such reference to the people can be made when large bodies of raiders are despoling country and military operations against them are being carried on. By this declaration I stand.

11. I have said enough to reassure you regarding our resolve to protect the Muslim population of Kashmir and of our desire to have people of Kashmir themselves decide their own future under fair and equitable conditions. I would repeat that we are ready for a discussion at any time. But if a discussion is to lead to a settlement, the raiders must be out of Kashmir State. We cannot leave the people of Kashmir unguarded and in the danger of attack. We have pledged our word to protect them.

12. In your Press statement you have said that you have no control of the tribesmen engaged in fighting in Kashmir. Even so, it should be possible for you to deny them access to Kashmir through your territory and also to stop supplies of commodities like petrol which, *prima facie*, they could not obtain from any source outside Pakistan. If you have no control over the raiders, and we do not stop and drive them out, then indeed we are reduced to a state of affairs when all Governments cease to function and the raiders, the looters and the killers become masters of the situation. That surely cannot be tolerated by our Government or yours.

13. I did not suggest that Pakistan Army was participating in the raiding officially. We possess, however, incontrovertible evidence that members of the Pakistan Army, whether on leave or deserters, have joined the raiders and that the military equipment which can only have come from Pakistan Army has been in the possession of the raiders."

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Attlee's Suggestion for Approach to World Court

Telegram from the Prime Minister of the United Kingdom to the Prime Minister of Pakistan dated November 22, 1947 :

"It is difficult for me and my Government to judge whether, by chance, there is any way in which we could be of service in helping towards a solution of the intractable problems produced by the march of events in relation to Kashmir.

2. Although the approach of your Government and that of the India Government is different, there seems to be agreement on both sides that a reference to the people of Kashmir is the right way in which to obtain a decision on the question of final accession to Pakistan or India, although I assume that it is hardly practicable to take this step before the spring. Mr. Nehru suggested in his broadcast of 2nd November, a referendum under international auspices like the United Nations and you also suggested in your statement of 16th November that the United Nations might be asked to appoint representatives to assist in the settlement of the Kashmir problem.

3. I can see great advantages, if it proved practicable for the machinery for consulting people of Kashmir to be devised and administered under the supervision of independent persons acting at the request of, and on behalf of, the two Governments jointly. After full consideration, I am inclined to think that the speediest and most satisfactory way of putting this idea into practice would be to have recourse to one special organ of the United Nations, namely the International Court of Justice.

4. Would you like me to take private soundings from the President of the International Court of Justice to find out whether he is of the opinion that it would be pracicable and he would be willing to try to get together a small team of international experts, not connected with India, Pakistan or the United Kingdom, in the event of a joint request being preferred by the Governments of India and Pakistan for this to be done.

5. I should be delighted to take such a step if you and the Prime Minister of India think it would be helpful. I am sending an identical message to the Prime Minister of India."

———

Pakistan's Insistence On U. N. Action

Text of Pakistan Prime Minister's reply cabled on November 24, 1947 to the British Prime Minister :*

"Many thanks for your telegram of November 22nd regarding Kashmir. Your suggestion of having recourse to International Court of Justice appears to be based on an inadequate appreciation of realities of situation in Kashmir. You have focussed your attention solely on the last process in the solution of the Kashmir question, namely, the holding of a plebiscite and have ignored the essential pre-requisites for a free and unfettered exercise of the will of the people. These are :

*Copy Cabled to Nehru also.

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Firstly, cessation of fighting and withdrawal of all outside forces, Indian or tribesmen, as well as of large number of armed Sikhs and Rashtriya Sewak Sangh who have entered the State since beginning of trouble ; Secondly, the establishment of an impartial interim administration which would put a stop to repression of Muslims and give free and equal opportunity to all political parties in the State. Without these two essential pre-requisites there is no chance of a free verdict of the people of the State on the question of accession.

2. The oft-repeated promises of India Government and Pandit Nehru that they are willing to have a plebiscite in Kashmir are intended to mislead the world. There is no dispute that plebiscite must be held as early as possible to ascertain free will of people of Kashmir. This is not the question in dispute ; it is axiomatic. The real issue is how this is to be done. You say the question has become intractable. It has been made purposely so by India Government. If India Government is honestly and genuinely desirous of a fair and peaceful settlement of Kashmir question they should immediately agree that fighting must cease and not take shelter behind the slogan that raiders must be driven out. It is not the so-called raiders but the people of Kashmir who are fighting against heavy odds to end Dogra tyranny and to prevent Kashmir from falling into the hands of India Dominion. The Azad Kashmir forces are almost wholly composed of the sons of the soil and even foreign observers have testified that wherever they have gone they have been welcomed as forces of liberation. We are ready to exercise all our influence on Azad Kashmir forces to stop fighting and to see that any tribesmen with them are not only stopped from fighting but are made to leave Kashmir. These tribesmen, it should be remembered, are the kith and kin of those for whom they are fighting.

3. The India Government are also trying to mislead the world by stating that people of Kashmir asked them through Sheikh Abdullah to send their troops to Kashmir. Sheikh Abdullah has been a paid agent of Congress for the last two decades and with the exception of some gangsters whom he has purchased with Congress money he has no following among Muslim masses. It is astonishing that Pandit Nehru, who knows these facts, should proclaim this Quisling to be the acknowledged leader of Muslims of Kashmir.

4. The India Government's insistence upon the retention of their troops in Kashmir until they have restored law and order to their own satisfaction can only mean that India troops will stay in the State until they have crushed by military force all opposition to their permanent occupation of Kashmir. The methods by which maintenance of law and order is used to consolidate an alien rule are well known. The Muslim population of the State has been feeling impact of those methods in full force. The true leaders of Muslims, and politically conscious among them, are, with their families, the special targets of this repression. In spite of protestation of India Government the number of Muslim refugees into Pakistan swells day by day and is now over 200,000 (two hundred thousands). All these refugees bring with them horrible tales of most inhuman atrocities. I repeat that what India Government is after, is permanent occupation of Kashmir and they know they cannot achieve this object until they have changed composition of population by converting Muslim majority into a minority. Behind their high-sounding phrases stands this

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hideous reality—their elimination and demoralisation of whole population by violent means—and any proposal which fails to tackle this basic fact offers no real solution.

5. The above analysis shows that first, fighting must stop and all outside forces must withdraw and secondly, which is no less essential, that Kashmir Administration must be taken over by an impartial and independent authority immediately. Not until these conditions are fulfilled is there any hope of getting a free plebiscite which, in our opinion, need not wait till the spring.

6. I hope you now realise the actual position. If you would consider these basic facts you will, I hope, support our proposal that U.N.O. should immediately send out a Commission to undertake the tasks outlined in para 5 above. This Commission should have under it an International Police Force to maintain law and order. The composition of this Force can be left to decision of U.N.O. Commission. We, on our part, would be prepared to accept a force drawn solely from Commonwealth."

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Nehru's Views On U. N.

Text of telegram dated December 12, 1947 from the Prime Minister of India to the Prime Minister of Pakistan :

"Ever since my return from Lahore I have given most earnest thought to settlement of all outstanding matters in dispute between India and Pakistan. My colleagues share my desire for such a settlement which is essential for well-being of both India and Pakistan. It is our good fortune that agreements have already been arrived at in regard to many matters in controversy. But you will appreciate that it is difficult to make any progress if conflict and indifference continue between the two countries. Such a conflict is likely to affect all our other relations and may lead to a deterioration of situation.

2. The major cause of this conflict at present is Kashmir. We have discussed this matter with you at great length without resolving our differences or finding a way out of the impasse. I reiterate the arguments which have been repeatedly advanced in support of our position. You are fully seized of them.

3. We have given further thought, in the light of our discussion in Lahore, to the question of inviting United Nations to advise us in this matter. While we are prepared to invite U. N. O. observers to come here and advise us as to proposed plebiscite, it is not clear in what other capacity the United Nations help can be sought. According to your own declaration to us you are not party to present struggle in Kashmir. We cannot treat with irregular invaders as a State. No Government can deal with such raids which have brought death and destruction to Kashmir except through military means. We owe an obligation to the people of Kashmir to restore peaceful and normal conditions. We have pledged ourselves to this end. We would be glad to cooperate in an attempt to restore peace by settlement.

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4. I trust that you will appreciate the logic and reasonableness of our position and our earnest desire to find a solution which is honourable to all concerned. I hope to meet you when you visit Delhi on December 22nd to attend the next meeting of the Joint Defence Council and to discuss this matter further with you. I confess, however, that I find myself unable to suggest anything beyond what I have offered already, namely, to ask U. N. O. to send impartial observers to advise us regarding the plebiscite.

I hope that your health continues to improve."

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Pakistan Comments On Nehru's Views

Text of telegram dated December 16, 1947 from the Prime Minister of Pakistan to the Prime Minister of India:

"Your telegram No. Primin 448 dated 12th December.

As you know, I am most desirous for a settlement of all matters in dispute between India and Pakistan. So are my colleagues. And I agree with you that the major issue outstanding between the two Dominions is Kashmir and, as I pointed out before also, Junagadh. During our discussions in Delhi and Lahore I explained to you how vital a place Kashmir occupies in relation to Pakistan. The security of Pakistan is bound up with that of Kashmir, and the ties of religion, cultural affinity and economic inter-dependence bind the two together still closer. The security and well-being of the people of Kashmir is of the highest importance to the people of Pakistan. We are, therefore, vitally interested in peaceful and honourable conditions for the people of Kashmir so that freed from all pressure, external or internal, they might of their own free will decide to which Dominion they wish to accede. The test of any course of action should therefore be whether it leads to the creation of conditions in which a really free plebiscite can be held. To my mind, the problem can only be solved by an act of statesmanship in the light of the basic realities of the situation and not by any legal disputations as how Pakistan is a party to the dispute or how U.N.O. can be brought in. I hope when we meet on the 22nd December we shall be able to discuss the matter in this spirit.

Many thanks for your enquiry about my health. I am feeling better now."

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India's Fore-runner Of Reference To U.N.

The text of letter dated December 22, 1947 handed over by the Indian Prime Minister, Jawaharlal Nehru, to the Pakistan Prime Minister, Liaquat Ali Khan, in person, in New Delhi:

"On various occasions, I have drawn your attention to the aid which the invaders of the Jammu and Kashmir State are deriving from Pakistan.

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Those who come from tribal areas have free transit through Pakistan territory, and many of these invaders are nationals of Pakistan. They are operating against Kashmir from bases in Pakistan. Much of their modern millitary equipment has been obtained from Pakistan sources; mortars, artillery and Mark V-mines are not normally the kind of armament which tribesmen or civilians possess. Motor transport, which the invaders have been using, and the petrol required for it, could also be obtained in Pakistan only. Food and other supplies are also secured from Pakistan; indeed, we have reliable reports that the invaders get their rations from military messes in Pakistan. According to our information large numbers of these invaders are receiving military training in Pakistan under officers of the Pakistan Army and other Pakistan nationals.

2. The forms of aid, enumerated in the preceding paragraph, which the invaders are receiving, constitute an act of hostility and aggression against India because they are being used against a State which has acceded to the Indian Dominion and is a part thereof.

3. The Government of India, while protesting against the action of the Pakistan Government in furnishing, or allowing such assistance to be furnished, and urging that the Pakistan Government should stop such help and call upon the invaders to withdraw, have so far taken no action which might involve entry by Indian forces into Pakistan territory. They have been hoping all these weeks, though with diminishing hope, that the Pakistan Government themselves would put a stop to aid to the invaders which is help to India's enemies. Since protests have failed to bear fruit, the Government of India now formally ask the Government of Pakistan to call upon Pakistan nationals to cease participation in the attack on Jammu and Kashmir State, and to deny to the invaders:

(1) all access to, and use of, Pakistan territory for operations against Kashmir State;

(2) all military and other supplies;

(3) all other kinds of aid that might tend to prolong the present struggle.

4. The Government of India have always desired and still earnestly desire to live on terms of friendship with Pakistan. They sincerely hope that the request which they have now formally made will be acceded to promptly and without reserve. Failing such response they will be compelled to take such action, with due regard to their rights and obligations as a member of the United Nations, as they may consider necessary to protect their own interests, and those of the Government and people of Jammu and Kashmir State".

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Pakistan's Counter-Charge Against India

The text of letter dated December, 31, 1947 from the Prime Minister of Pakistan to the Prime Minister of India.

"Please refer to your demi-Official dated the 22nd December in which you have brought formal charges against the Pakistan Government for

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aiding and abetting the so-called 'invaders' of Kashmir in their fight against the forces of the Maharaja and of the Indian Dominion.

2. Despite the ominous hint contained in paragraph three, I trust I am right in assuming that your letter is not an "ultimatum" but a forerunner of a formal reference of the matter to the U.N.O. If so, nothing could be more welcome, for, you will recollect, this is exactly what the Pakistan Government has been suggesting throughout as the most effective method of ironing out our mutual differences. I am, therefore, sincerely glad to find that you propose at last to adopt this particular line of approach to our problems.

3. I must, however, confess my disappointment that your proposal apparently restricts the reference to the single issue of Kashmir. The episode of Kashmir considered by itself would look like a sentence torn out of its context. It is but an act in the unparalleled tragedy which is being enacted before our eyes ever since the announcement of the scheme of partition. A reference to the U.N.O. therefore, in my opinion, must cover much larger ground and embrace all the fundamentals of the differences between the two Dominions. As I see it, it is neither Kashmir alone nor Junagadh and Manavadar, nor even the terrible tragedy of wholesale massacres of Muslim men, women and children in extensive areas of the Indian Dominion, but a totality of these horrors and iniquities, indicating but one consistent sinister pattern, which should rightly form the subject matter of international investigation. If the root causes of the evil, which is vitiating our relations, are not determined and removed, it is much to be feared that fresh incidents will continue to threaten the peace not only between the two Dominions, but in a much wider field.

4. The case of Kashmir is simple and our attitude has been explained frankly and repeatedly both in our communications to you and our official statements to the Press. The Pakistan Government has not accepted and cannot accept the so-called 'accession' of the Jammu and Kashmir State to India. We have said it before and repeat that the 'accession' was fraudulent inasmuchas it was achieved by deliberately creating conditions with the object of finding an excuse to stage the 'accession.' It was based on violence because it furthered the plan of the Kashmir Government to liquidate the Muslim population of the State. The accession was against the well-known will of an overwhelming majority of the population and could not be justified on any grounds whether moral or constitutional ; geographical or economic ; cultural or religious.

5. The sole responsibility for the disturbances which occurred in the State must squarely lie on the Maharaja and his Government who, despite the advice tendered by the Pakistan Government, persisted in their policy of repression of Muslims. Repression was followed by resistance particularly in the area of Poonch which is inhabited by a large number of ex-soldiers. The resistance in its turn was met with more repression till the Dogra savagery, supported by the brutality of Sikh and Rashtriya Sewak Sangh bands, created a reign of terror in the State. This state of affairs naturally aroused strong feelings of sympathy throughout Pakistan, particularly among the Muslims living in the contiguous areas who had numerous ties of relationship with the persecuted people of the State. Some of these people went across to assist their kinsmen in their struggle for freedom and indeed for existence itself. The stage was thus set for the pre-planned

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intervention by the forces of the Indian Dominion to quell this spontaneous popular rising against the culmination of the age-long tyranny of the Dogra rule. The repeated warnings of the Pakistan Government went unheeded. This hasty and ill-advised action completely changed the picture and the Frontier tribesmen, a ferociously freedom-loving people, naturally took up the challenge in support of their Kashmir co-religionists fighting for their survival and liberation. If the Government of India had extended to the Pakistan Government the courtesy of consulting it before embarking on its enterprise and suddenly landing troops in Kashmir, or even notifying Pakistan of its proposed action thus providing an opportunity for discussion and consultation, it might have been possible to avert the tragedy of Kashmir. The action of the Government of India served to swell the torrent of popular resentment until it became impossible for the Pakistan Government to stem it without embarking on large-scale military operations.

6. As regards the charges of aid and assistance to the 'invaders' by the Pakistan Government we emphatically repudiate them. On the contrary, and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war. This caused bitter resentment throughout the country but, despite a very serious risk of large-scale internal disturbances, the Pakistan Government has not deviated from the policy.

In view of this background it would not be surprising if some nationals of Pakistan were taking part in the struggle for the liberation of Kashmir along with the forces of the Azad Kashmir Government. You must have already heard of an international Brigade composed of representatives of many nations in the world who are likewise fighting on the side of the Azad Kashmir Government. In regard to the modern military equipment that you allege to be in the possession of the Azad Kashmir forces, our information is that these forces are poorly equipped and such few modern weapons as they might possess, have either been captured from the Dogra and Indian troops or have been in the possession of the ex-soldiers of Poonch since the days of the British. As you know, there are large numbers of Poonchis in the Pakistan Army and if some of them, while on leave in their homes, rendered assistance to their kith and kin in defence of their hearths and homes, it is scarcely to be wondered at.

7. On the contrary, it is the Indian Government which must answer the charge of conspiracy with the Maharaja of Kashmir in repudiation of the very principles on which it had only one month before opposed Junagadh's accession to Pakistan. The plea that the accession is only temporary pending restoration of peaceful conditions is too flimsy to stand examination, particularly in the light of recent negotiations in the course of which a perfectly fair and workable plan of withdrawal of opposing forces followed by a referendum under impartial aegis suggested by us, was turned down by your Government. But all this fits in with the general 'pattern' of the India Government's political attitude towards Pakistan ever since it became evident that partition was the only possible solution of our constitutional problems.

8. The story begins as early as the middle of 1946 following the demonstration of Muslims throughout the country after the last provincial

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elections. It became clear that Pakistan was the unalterable goal of the Muslims. The inevitability of the partition of the country, which now became evident to all, gave rise to a wave of deep resentment among the Hindu and Sikh population of the sub-continent. As a direct result of this severe communal rioting occurred in several towns and Provinces of India such as Calcutta, Noakhali, Bihar, Bombay, Garhmukteshwar, Rawalpindi, Lahore and Amritsar. Such communal strife had not been unknown previously, but what was astonishing was the unprecedented scale of killings that took place in Bihar and Garhmukteshwar proving beyond doubt the existence of a well-settled plan of extermination of the Muslims. It was during these disturbances that the Rashtriya Sewak Sangh came to be known as the author of some of the most brutal massacres. The orgy of blood, however, died down in due course, but, as later events proved, only temporarily.

9. The political activity which took place in the early part of 1947 produced a lull but soon after the partition plan was announced on the 3rd June 1947, clear indications began to be received that the country was going to be plunged into a blood bath by the fanatical Sikhs and the militant Hindu groups headed by the Rashtriya Sewak Sangh who had made no secret of their opposition to the partition scheme, in spite of its being accepted by the representatives of all the three major communities.

10. The process of partition itself was marked by all manner of obstructions aimed at depriving Pakistan of its rightful share of financial and other assets. Even in cases in which agreement was reached, the implementation was delayed or sabotaged.

11. At this stage the main chain of events which eventually brought untold suffering to millions of people of East Punjab, Rajputana and the United Provinces was set in motion with carefully prepared attack on a special train carrying Pakistan Government employees and their families from Delhi to Karachi on the 9th August 1947. As the plan unfolded itself, it became clear that the Sikhs, encouraged and actively assisted by the Hindus, had determined to liquidate by violent and bloody means the entire Muslim population of East Punjab. The object of the plan was to kill or drive out Mussalmans in order to settle the Sikh population which was being pulled out of West Punjab under a planned scheme. The *modus operandi* was to disarm the Muslim population and then to leave it at the mercy of armed bands who were actively assisted by the Army and the police. There is abundant evidence that this plan had the full support and active assistance not only of the officers of the Provincial Government, but also of the Sikh States, such as Patiala, Kapurthala. and Faridkot. Alwar and Bharatpur had already set the example in eliminating their entire Muslim population, but they were soon outdone. Kapurthala, which, like Kashmir, was a Muslim-majority State, has to-day not a single Muslim left. Similarly large tracts of Muslim majority areas which under the Boundary Award had been most unjustly included in East Punjab were depopulated. The whole country was ravaged by fire and sword; vast numbers were butchered and countless women were abducted. Indeed decency forbids mention of some crimes committed against women. Millions were forcibly and ruthlessly driven out of their homes. The process went on, sector by sector, and culminated in the tragedy that was

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enacted in Delhi, the Capital of India. According to the Government of India itself there was a complete breakdown of administration for a number of days. The destruction and desecration of mosques, tombs and holy places, and forcible conversions on a mass scale, were special features of these happenings.

12. This plan of liquidation of the Muslim population is still proceeding despite the pious professions of the Government of India. The latest example of this is provided by the happenings in the holy city of Ajmer. The Government of Pakistan find it difficult to believe that under the circumstances the Government of India are innocent of all complicity in this vast scheme of 'genocide' started by the Sikhs and Hindus and encouraged and supported by persons in authority as means of destroying the newly created State of Pakistan. The Mussalmans of India are being subjected to calculated insults and humilations. All sorts of tests of loyalty are being demanded from them. The one on which particular emphasis is laid is that they should denounce Pakistan and try to undo the partition and express their readiness to fight Pakistan on the side of India in the event of war between the two Dominions. It is a matter for deep regret that even to-day responsible members of the Government of India, including yourself, openly declare their intention or hope of bringing Pakistan back into the Indian Union, well-knowing that this can be done only through conquest by arms. Such an attitude can only mean that the Hindu and Sikh leaders while giving their agreement to the partition plan did so without any intention of permitting its implementation and, further, that India is determined to undo the settlement by all means available at its disposal. In other words Pakistan's very existence is the chief 'causes belli' so far as India is concerned. It is this impossible position which manifests itself, time and again, in all of India's dealings with Pakistan whether political, economic or financial and unless an effective remedy is found, it is difficult to see how a direct clash can be avoided with the best will in the world.

13. The events which took place following the announcement of the accession of Junagadh and Manavadar States to Pakistan lend further support to the contention of the Pakistan Government that the Government of India intend by all possible means at their disposal to destroy Pakistan.

In accordance with the agreed scheme of partition and the Indian Independence Act, 1947, Indian States were under no compulsion to join either of the two Dominions. Notwithstanding this clear provision, the Government of India by a combination of threats and cajolery forced a number of states into acceding to the Indian Union. The Rulers of Junagadh and Manavadar were similarly threatened with dire consequences but they stood firm and exercised their right of joining Pakistan in preference to India. This was the signal for India to launch with full force her attack, using every possible weapon in order to force the States against their will to change their affiliation. Protests were made to the Pakistan Government, pointing out that a State which had a Hindu-majority population could not accede to Pakistan as the country had been divided on a communal basis. Another reason given was that Junagadh was not physically contiguous to Pakistan and that its accession to Pakistan was calculated to cause disruption in the integrity of India. Simultaneously with these protest, the Government of India put large bodies of Indian troops on the borders

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of Junagadh and encouraged the neighbouring Hindu states, which had acceded to India, to do likewise. In clear violation of the stand-still agreement, the Junagadh State was subjected to an economic blockade involving stoppage of all vital supplies, including food, cloth and coal into the State territory. Lines of communication, including railway and telegraph, were operated in such a manner that it became impossible for the State or the Muslim population of Junagadh to communicate with the outside world. A strong Press campaign calculated to destroy the State administration and to create panic among the population was launched both inside and outside the State.

Another line of attack was adopted by setting up the so-called 'Provisional Government' with headquarters first at Bombay and later at Rajkot, which claimed the right to liberate the non-Muslim population of the Junagadh State. The so-called 'Azad Fauj' of the 'Provisional Government, was created and armed by the officers of the Indian Dominion. The 'Provisional Government' not only proceeded to seize by force State property in Rajkot, but by methods of sheer gangsterism' created conditions in which it became impossible for the State Administration to function. At this point the Government of India sent its troops and occupied the State under the plea of an alleged 'invitation by the Dewan.' Since then an orgy of murder, arson, rape and loot has been let loose in Kathiawar by the military forces of India in exactly the same manner as in Northern India, and hundreds of thousands of Muslims have had to flee from the State. According to newspaper reports, Mr. Samaldas Gandhi, the head of the so-called Provisional Government, has openly thanked a member of your Government, for all the assistance received. All this was done in sheer disregard of the international conduct and ordinary neighbourly decency. In the interest of peace between the two Dominions Pakistan refrained from sending a single soldier to Junagadh. Occupation by force of Junagadh, which is Pakistan territory, is a clear act of aggression against Pakistan.

14. In case of Manavadar even the thin camouflage of a semblance of justification was not considered necessary and the State was taken under military occupation without the slightest explanation being given. A similar fate befell the Talukdari States of Sardargarh, Bantva, Sultanabad and Mangrol. The unfortunate rulers of some of these States have been kept in detention and have been subjected to considerable pressure to wean them from their affiliation to Pakistan.

15. This brief account of India's dealings with a friendly State can leave no doubt in the mind of any impartial person that the new India does not feel herself bound by any moral or international code of rules. The military *coup d'etat* by which the occupation of Junagadh and Manavadar and other States was achieved, is of one piece with the general scheme of destroying the integrity and the very existence of Pakistan to which reference has been made. We have formally drawn your attention to the various acts of hostility culminating in actual seizure of Pakistan territory by the India Government in Junagadh, but have not received even the courtesy of a reply. Perhaps now that you propose to take the case of Kashmir to the U. N. O. you would be good enough to let us know why, in spite of our clear request, you have not withdrawn from the territories of Junagadh, Manavadar and Mangrol, etc. ?

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15. In this connection it is of interest to note that the arguments advanced by India for refusing to accept the accession of Junagadh to Pakistan have been conveniently and completely ignored in connection with the accession of Kashmir to the Indian Dominion. This again is fully in keeping with the general political attitude of India towards Pakistan.

16. These are not the only examples of aggression against Pakistan territory. Numerous raids by armed bands, assisted by the police and military, have taken place across the border into Pakistan. The Royal Indian Air Force have made repeated attacks on Pakistan territory causing damage to life and property.

17. Another illustration of the same attitude is provided by the refusal of the India Government to implement the recent financial agreement of all outstanding cases which had been referred to the Arbitral Tribunal. The India Government is deliberately withholding the payment of Rupees fifty-five crores of the cash balances which is the legal due of the Pakistan Government according to this agreement. This is the latest manifestation of their desire to strangle Pakistan financially and economically which characterised the partition proceedings. In the case of military stores there has been a similar refusal to implement the agreement. The Supreme Commander, who was appointed as a neutral authority under the joint Defence to carry into effect the partition of the armed forces and military stores, was forced despite the protestations of the Pakistan Government, to leave by your Government long before he could complete his task. At the time this was done the Indian representatives on the joint Defence Council pledged the word of the India Cabinet that Pakistan would receive her due share of military stores. This pledge, like other similar pledges of the India Government, has not been honoured and the slight trickle of military stores to Pakistan shows signs of stopping altogether.

18. To sum up, our counter-charges against the Dominon of India are as follows:

(1) that India has never wholeheartedly accepted the partition scheme, but her leaders paid lip-service to it merely in order to get the British troops out of the country ;

(2) that India is out to destroy the State of Pakistan which her leaders persistently continue to regard as part of India itself;

(3) that the systematic sabotage against the implementation of partition, the stoppage of such essential requirements as coal and rail transport, the deliberate withholding of Pakistan's share of funds and arms and equipment, and the wholesale massacres of Muslim population are all designed toward one aim, namely, the destruction of Pakistan ;

(4) that India's forcible occupation of Junagadh, Manavadar and other States in Kathiawar whcih had acceded to Pakistan, as well as the fraudulent procurement of the accession of Jammu and Kashmir State, are acts of hostility against Pakistan whose destruction is India's immediate objective.

19. I, however, note with pleasure your assurance that the Government of India have always desired and still earnestly desire to live on terms of friendship with Pakistan. On behalf of the Pakistan Government I fully and sincerely reciprocate this desire. I am constrained, however,

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to observe that the Government of India have at no stage afforded any practical proof of their desire to live on terms of friendship with Pakistan, more particularly in the case of Junagadh and Kashmir. On my side, I can assure you that the earnest desire of the Government of Pakistan to live on terms of friendship with India has, in many instances, restrained the Government of Pakistan from taking action which would not only have been legally justifiable but was in several instances urgently called for and yet was not adopted in the hope that the attitude of the Government of India might, even during these later stages, be more favourably affected towards Pakistan. I find it more and more difficult to persuade myself to continue to entertain that hope. The course of events, very briefly set out above, would normally have been treated as a chain of aggression justifying extreme action on the part of the aggrieved Government. Now that your letter of the 22nd December 1947 has indicated an intention on the part of the Government of India to invite the intervention of the United Nations, a course which the Pakistan Government has so far ineffectively suggested to the Government of India, for the resolving of their differences, I have taken this opportunity to invite your attention to the main heads of the differences between the two Governments that stand in the way of an amicable adjustment of our relations. It is my most earnest hope that these differences may be speedily composed and that our relations will thereafter ever continue to be on the most cordial, co-operative, and friendly basis. I trust you will agree that intervention of the United Nations, whatever form it is to take, should be invited in respect of all these matters, so that all pending differences may be speedily resolved."

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Section V

The Two Complainants in U. N.

On January I, 1948 the representative of India at the United Nations, P. P. Pillai, sent a letter to the President of the Security Council transmitting a telegraphic communication from the Government of India dated December 31, 1947, lodging a complaint with the Security Council under Article 35 of the U. N. Charter. On January 15, 1948, was delivered to the Secretary-General of the U. N. a letter from the Foreign Minister of Pakistan, Sir Mohd. Zafrullah Khan, enclosing three documents constituting Pakistan's reply to India's complaint ; Pakistan's complaint against India ; and statement of the particulars of Pakistan's case with reference to both. Pakistan too brought its case before the Security Council under Article 35 of the Charter. The Secretary-General was requested to transmit the three documents to the Security Council which "may be requested to deal with the complaint referred to in Document 11 at the earliest possible date."

Article 35 of the Charter of the United Nations appears under Chapter VI of the Charter headed "Pacific settlement of disputes". It entitles any member of the U. N. and even a non-member, to bring any dispute, or any situation of the nature referred to in Article 34 to the attention of the Security Council or of the General Assembly. The proceedings of the General Assembly in respect of matters brought to its attention under this Article are to be subject to the provisions of Articles 11 and 12 of the Charter. Article 34 lays down that the Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and Security. The role of the Security Council under Chapter VI is mediatory. It can neither impose a solution on a dissenting party nor recommend sanctions against it as it is entitled to do against an aggressor under Chapter VII. Neither India, nor Pakistan invoked the provisions of Chapter VII of the Charter which would entitle each to seek the other party to be declared an aggressor. Both contented themselves with seeking the mediation of the U. N. in promoting an amicable settlement of the dispute.

In its complaint India reported to the Security Council that a situation, continuance of which was likely to endanger the maintenance of peace and security, had developed between India and Pakistan owing to the aid which invaders from across Pakistan into the State of Jammu and Kashmir were receiving from Pakistan. About 2,000 of them comprising tribesmen and Pakistan nationals had crossed into State territory, according to information reaching the Government of India on October 24,1947, and their number at present was approximately 19,000. These invaders were equipped with modern weapons including mortars

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and machineguns, wore the battle-dress of regular soldiers and fought in regular battle formation using tactics of modern warfare. Manpack wireless sets were in regular use and even Mark V mines had been employed. Besides these about 100,000 had been recruited in tribal areas and other parts of Pakistan and these men were being "looked after in Pakistan territory, fed, armed, and otherwise equipped and transported to the territory of Jammu and Kashmir State with the help, direct and indirect of Pakistan officials, both military and civil. Many were receiving training under Pakistan Army."

India told the Security Council that it had accepted the accession of Kashmir to India offered by the Maharaja on October 26, 1947, as also the Ruler's appeal for help against the invaders which was backed by the largest popular organization in Kashmir, the National Conference headed by Sheikh Mohd. Abdullah. But to avoid any suggestion that "India had utilized the State's immediate peril for her own political advantage the Government of India made it clear that once the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by recognized democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices".

The complaint further stated that on a number of occasions, the last being on December 22, 1947, when the Prime Minister of India personally handed over a letter to the Prime Minister of Pakistan, India had asked Pakistan to put a stop to the various forms of aid which the invaders were receiving form Pakistan. No reply had been received to the latest communication. This attitude of the Pakistan Government was not only "un-neutral but also constitutes active aggression against India of which the State of Jammu and Kashmir forms a part." The Government of India would, under international law, be entitled to enter Pakistan to deny the raiders the use of bases there but "as such action might involve conflict with Pakistan, the Government of India, ever anxious to proceed according to the principles and aims of the Charter of the United Nations, desires to report the situation to the Security Council under Article 35 of the Charter. "They feel justified" it added, "in asking the Security Council to ask the Government of Pakistan :

(1) To prevent Pakistan Government personnel, military and civil, from participating and assisting in the invasion of Jammu and Kashmir ;

(2) To call upon other Pakistan nationals to desist from taking any part in the fighting in the Jammu and Kashmir State ; and

(3) To deny to the invaders (*a*) access to and use of its territory for operations against Kashmir, (*b*) military and other supplies, and (*c*) all other kinds of aid that might tend to prolong the present struggle".

India's complaint stressed the urgency of the Security Council taking immediate action on India's request and added that India desired to live on terms of closest and lasting friendship with her neighbour. It also stated that text of the reference was being telegraphed to Pakistan. [The Pakistan Foreign Minister, however, complained that India had sent the telegram in a code of which they did not have the key and they had to ask for it twice. Finally, a copy was sent to them by air-mail].

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Pakistan in its document I of the three documents forwarded to the Secretary-General of the United Nations on January 15, 1948, emphatically denied the charges levelled against it in India's complaint and stated that it had, in fact, done everything short of war to discourage the tribal movement. It said that it was possible that some "independent tribesmen and persons from Pakistan are helping the Azad Kashmir Government in their struggle for liberty as volunteers but it was wrong to say that Pakistan territory is being used as a base for military operations."

Document 11 of the Pakistan Government's communication brought to the notice of the Security Council under Article 35 of the Charter of the U.N.. the "existence of disputes between India and Pakistan which are likely to endanger the maintenance of international peace and security" and requested it to adopt "appropriate measures for the settlement of these disputes and the restoration of friendly relations between the two countries" The details of Pakistan's reply to India's complaint and the particulars of its own complaint were set out in document 111 of its communication of January 15, 1948.

Pakistan complaint listed ten charges against India. These in brief were : (1) that "India has never whole-heartedly accepted partition" and is since June 1947 "making persistent attempts to undo it", (2) that "a pre-planned and extensive campaign of genocide against Muslims has been in progress since 1946 and rulers and officials of certain States in East Punjab and Rajasthan, as also the officials, Army, and police of the Indian Union, are among those involved in the execution of this campaign"; (3) that the "religion, culture, and language and the security of Muslims in India are in danger" ; (4) that India "has forcibly and unlawfully occupied Junagadh, Manavadar and some other States in Kathiawar which had lawfully acceded to Pakistan and extensive damage to the life and property of Muslims has been done by the armed forces, officials, and non-Muslims of India" (5) that India "has obtained the accession of Kashmir through fraud and violence and large-scale massacre of Muslims there has been effected by the forces and nationals of India and the State"; (6) That "the Royal Indian Air Force and armed bands from India and Kashmir have made numerous attacks on Pakistan" ; (7) That India has "blocked implementation of partition agreements and has withheld Pakistan's share of cash balances and military stores", (8) That "under pressure, direct and indirect, from India the Reserve Bank of India is refusing to honour to the full its obligations as banker and currency Authority of Pakistan and that such pressure is designed to destroy the monetary fabric of Pakistan" ; (9) that India "now threatens Pakistan with direct military attack" ; and (10) that "the object of the various acts of aggression by India against Pakistan is the "destruction of the State of Pakistan."

In this connection, Pakistan requested the Security Council to appoint a commission or commissions to arrange for the cessation of fighting in Jammu and Kashmir and the withdrawal of all outsiders, whether belonging to Pakistan or the Indian Union ; the return and compensation of Muslims that had been forced to leave, and the establishment of a representative administration. It requested that when these steps had been taken a plebiscite be held to determine whether

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the State should accede to India or Pakistan. Concerning the occupation of Junagadh, Manavadar and other States of Kathiawar, which had acceded to Pakistan, it asked that the Commission arrange for the evacuation of the military forces and civil administration of the Indian Union and assist in the restoration to their homes of the people who had fled or had been driven out of those States. It also asked that the Commission investigate and arrange for the trial of those responsible for acts of genocide, by an international tribunal.

In addition, Pakistan requested the Security Council to call upon India to desist from acts of aggression against Pakistan and to implement without delay all partition agreements, including the division of cash balances and military stores of the pre-partition Government of India which until now had been withheld.

In later statements, India repudiated Pakistan's charges as "false" and as having been made in the hope of obscuring the real issue on which Pakistan had no effective answer. The communal disturbances, it claimed, had been started by the Muslims and the root cause was to be found in the continual preaching of communal hatred by Muslim leaders over a number of years.

Both parties agreed, however, that the situation between them might lead to a breach of international peace.

While stressing their desire for friendly relations between themselves, both India and Pakistan threatened each other with direct military action.

Extracts From The U.N. Charter

Article 1—

The purposes of the United Nations are :

1. To maintain international peace and security, and to that end : to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace ;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace ;

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion ; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

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Article 2—

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that States which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII.

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Chapter IV

The General Assembly

Composition

Article 9—

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

Article 10—

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12. may make recommendations to the Members of the United Nations or to the Security Council or to both on any such qustions or matters.

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Article 11—

1. The General Assembly may consider the general principle of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by any State which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and except as provided in Article 12, may make recommedations with regard to any such question to the State or States concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10,

Article 12

1. While the Security Council is exercising in respect of any disupte or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendations with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

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Article 14—

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations, including situations resulting from a violation of the present Charter setting forth the Purposes and Principles of the United Nations.

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Article 18—

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include : recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, election of the members of the

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Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph (c) of Article 85, the admission of new Members of the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

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Chapter V

The Security Council

Composition.

Article 23—

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Functions and Powers

Article 24—

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25—

The Members of the United Nations agree to accept and carry

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out the decisions of the Security Council in accordance with the present Charter.

Article 26—

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the worlds's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Voting

Article 27—

1. Each member of the Security Council shall have one vote.

2. Decisions of the Secruity Council on procedural matters shall be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

Article 28—

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.

3. The Security Council may hold meetings at such place other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29—

1. The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

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Article 31—

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32—

Any member of the United Nations which is not a member of the Security Council or any State which is not a member of the United Nations if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it

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deems just for the participation of a State which is not a Member of the United Nations.

Chapter VI

Pacific Settlement of Disputes

Article 33—

The parties to any dispute, the continuance of which is likely to endanger maintenance of international peace and security, shall, first of all, seek a solution by negotiation, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34—

1. The Security Council may investigate any dispute or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35—

1. Any member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A State which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36—

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should, as a general rule, be referred by the parties to the International Court of justice in accordance with the provisions of the Statute of the Court.

Article 37—

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

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2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38—

Without prejudice to the provisions of Article 33 or 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

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Chapter VII

Action with Respect to Threats to The Peace, Breaches of the Peace, and Acts of Aggression

Article 39—

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security.

Article 40—

In order to prevent an aggravation of situation, the Security Council may before making the recommendations or deciding upon the masures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims. or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41—

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of the rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations.

Article 42—

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43—

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities,

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including right of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory States in accordance with their respective constitutional processes.

Article 44—

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite the Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45—

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special aggreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Articls 46—

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47—

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

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Article 48.—

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49—

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50—

If preventive or enforcement measures against any State are taken by the Security Council, any other State, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carring out of those measures shall have the right to consult the Security Council with regrad to a solution of those problems.

Article 51—

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

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India's Complaint Against Pakistan

The text of letter (S/628) dated January 1, 1948 from the Representative of India to the President of the Security Council.

New York, 1 January 1948.

"The Government of India have instructed me to transmit to you the following telegraphic communication :—

'1. Under Article 35 of the Charter of the United Nations, any member may bring any situation whose continuance is likely to endanger maintenance of international peace and security to the attention of the Security Council. Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the North-West are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The circumstances of accession, the activities of the invaders which led the Government of India to take military action against them,

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and the assistance which the attackers have received and are still receiving from Pakistan are explained later in this memorandum. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self-defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is, therefore, one of extreme urgency and calls for immediate action by Security Council and for avoiding a breach of international peace.

2. From the middle of September 1947 the Government of India had received reports of the infiltration of armed raiders into the Western parts of Jammu province of the Jammu and Kashmir State. Jammu adjoins West Punjab, which is a part of the Dominion of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On 24 October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan into the valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of the State of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people, and proceeded along the Jhelum valley road towards Srinagar, the summer Capital of the Jammu and Kashmir State. Intermediate towns and villages were sacked and burnt, and many people killed. These raiders were stopped by Kashmir State troops near Uri, a town some fifty miles from Srinagar, for some time, but the invaders got around them and burnt the power house at Mahoora, which supplied electricity to the whole of Kashmir.

3. The position on the morning of 26 October, was that these raiders had been held by Kashmir State troops and part of the civil population who had been armed, at a town called Baramula. Beyond Baramula there was no major obstruction upto Srinagar, There was immediete danger of these raiders reaching Srinagar, destroying and massacring large numbers of people, both Hindus and Muslims. The State troops were spread out all over the State and most of them were deployed along the Western border of Jammu province. They had been split up into small isolated groups and were incapable of offering effective resistance to the raiders. Most of the State officials had left the threatened area and the civil administration had ceased to function. All that stood between Srinagar and the fate which had overtaken the places *en route* followed by the raiders was the determination of the inhabitants of Srinagar, of all communities,, practically without arms, to defend themselves. At this time Srinagar had also a large popultion of Hindu and Sikh refugees who had fled there from West Punjab owing to communal disturbances in that area. There was little doubt that these refugees would be massacred if the raiders reached Srinagar.

4. Immediately after the raids into the Jammu and Kashmir commenced, approaches were informally made to the Government of India for the acceptance of the accession of the State to the Indian Dominion. (It might be explained in parenthesis that Jammu and Kashmir form a State whose ruler, prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, had been in treaty relations with the British Crown, which controlled its foreign relations and was responsible for its defence. The treaty relations ceased with the transfer of power on 15 August

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last, and Jammu and Kashmir like other States acquired the right to accede to either Dominion).

5. Events moved with great rapidity, and the threat to the valley of Kashmir became grave. On 26 October, the ruler of the State, His Highness Maharaja Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir State should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organization in Kashmir, the National Conference headed by Sheikh Mohammed Abdullah. The Conference further strongly supported the request for the State's accession to the Indian Dominion. The Government of India were thus approached not only offiicially by the State authorities, but also on behalf of the people of Kashmir, both for military aid and for the accession of the State to India.

6. The grave threat to the life and property of innocent people in the Kashmir valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the valley demanded immediate decision by the Government of India on both the requests. It was imperative on account of the emergency that the responsibility for the defence of Jammu and Kashmir State should be taken over by a Government capable of discharging it. But in order to avoid any possible suggestion that India had utilized the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by recognized democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices.

7. The Government of India felt it their duty to respond to the appeal for armed resistance because:

(1) they could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or its external relations ;

(2) the accession of the Jammu and Kashmir State to the Dominion of India made India really responsible for the defence of the State.

8. The intervention of the Government of India resulted in saving Srinagar. The raiders were driven back from Baramula to Uri and are held there by Indian troops. Nearly 19,000 raiders face the Dominion forces in this area. Since operations in the valley of Kashmir started, pressure by the raiders against the Western and South-Western border of the Jammu and Kashmir State has been intensified. Exact figures are not available. It is understood, however, that nearly 15,000 raiders are operating against this part of the State. State troops are besieged in certain areas. Incursions by the raiders into the State territory, involving murder, arson, loot, and the abduction of women continue. The booty is collected and carried over to the tribal areas to serve as an inducement to the further recruitment of the tribesmen to the ranks of the raiders. In addition to those actively participating in the raid, tribesmen and others, estimated at 100,000 have been collected in different

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places in the districts of West Punjab bordering the Jammu and Kashmir State, and many of them are receiving military training under Pakistan nationals including officers of the Pakistan Army. They are looked after in Pakistan territory, fed, clothed, armed and otherwise equipped and transported to the territory of the Jammu and Kashmir State with the help, direct and indirect, of Pakistan officials, both military and civil.

9. As already stated the raiders who entered the Kashmir valley in October came mainly from the tribal areas to the North-West of Pakistan and in order to reach Kashmir, passed through Pakistan territory. The raids along the South-West border of the State, which had preceded the invasion of the valley proper had actually been conducted from Pakistan territory, and Pakistan nationals had taken part in them. This process of transmission across Pakistan territory and utilization of that territory as a base of operations against the Jammu and Kashmir State continues. Recently military operations against the Western and the South-West borders of the State have been intensified, and the attackers consist of the nationals of Pakistan as well as tribesmen. These invaders are armed with modern weapons, including mortars and medium machineguns, wear the battle-dress of regular soldiers, and in recent engagements, have fought in regular battle formation and are using the tactics of modern warfare. Man-pack wireless sets are in regular use and even mark V mines have been employed. For their transport the invaders have all along used motor vehicles. They are undoubtedly being trained, and to some extent led by regular officers of the Pakistan Army. Their rations and other supplies are obtained from Pakistan territory.

10. These facts point indisputably to the conclusion :

(a) That the invaders are allowed transit across Pakistan ;

(b) That they are allowed to use Pakistan territory as a base of operations ;

(c) That they include Pakistan nationals ;

(d) That they draw much of their military equipment, transportation and supplies including petrol from Pakistan and

(e) that Pakistan officers are training, guarding and otherwise actively helping them.

There is no source other than Pakistan from which they could obtain such quantities of modern military equipment, training or guidance. More than once the Government of India had asked the Pakistan Government to deny to the invaders facilities which constitute an act of aggression and hostility against India, but without any response. The last occasion on which this request was made was on 22 December, when the Prime Minister of India handed over personally to the Prime Minister of Pakistan a letter in which the various forms of aid given by Pakistan to the invaders were briefly recounted and the Government of Pakistan were asked to put an end to such aid promptly; no reply to this letter has yet been received in spite of a telegraphic reminder sent on 26 December.

11. It should be clear from the foregoing recital that the Government of Pakistan are unwilling to stop the assistance in material and men

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which the invaders are receiving from Pakistan territory and from Pakistan nationals, including Pakistan Government personnel, both military and civil. This attitude is not only un-neutral, but constitutes active aggression against India, of which the State of Jammu and Kashmir forms a part.

12. The Government of India have exerted persuasion and exercised patience to bring about a change in the attitude of Pakistan, but they have failed, and are in consequence confronted with a situation in which their defence of the Jammu and Kashmir State is hampered and their measures to drive the invaders from the territory of the State are greatly impeded by the support which the raiders derive from Pakistan. The invaders are still on the soil of Jammu and Kashmir and the inhabitants of the State are exposed to all the atrocities of which a barbarous foe is capable. The presence in large number of invaders in those portions of Pakistan territory which adjoins parts of Indian territory other than the Jammu and Kashmir State, is a menace to the rest of India. Indefinite continuance of the present operations prolongs the agony of the people of Jammu and Kashmir, is a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan. The Government of India, have no option, therefore, but to take more effective military action in order to rid the Jammu and Kahmir State of the invader.

13. In order that the objective of expelling the invader from Indian territory and preventing him from launching fresh attacks should be quickly achieved, Indian troops would have to enter Pakistan territory; only thus could the invader be denied the use of bases and cut off from his sources of supply and reinforcements in Pakistan. Since the aid which the invaders are receiving from Pakistan is an act of aggression against India, the Government of India are entitled, under international law to send their armed forces across Pakistan territory for dealing effectively with the invaders. However, as such action might involve armed conflict with Pakistan, the Government of India, ever anxious to proceed according to the principles and aims of the Charter of the United Nations, desire to report the situation to the Security Council under Article 35 of the Charter. They feel justified in requesting the Security Council to ask the Government of Pakistan :

(1) *To prevent Pakistan Government personnel, military and civil from participating or assisting in the invasion of the Jammu and Kasmir State ;*

(2) *To call upon other Pakistan nationals to desist from taking any part in the fighting in the Jammu and Kashmir State ;*

(3) *To deny to the invaders (a) access to and use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the present struggle.*

14. The Government of India would stress the special urgency of the Security Council taking immediate action on their request. They desire to add that military operations in the invaded areas have, in the past few days, been developing so rapidly that they must, in self-defence, reserve to themselves the freedom to take at any time when it may

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become necessary such military action as they may consider the situation requires.

15. The Government of India deeply regret that a serious crisis should have been reached in their relations with Pakistan. Not only is Pakistan a neighbour, but, in spite of the recent separation, India and Pakistan have many ties and common interests. India desires nothing more earnestly than to live with her neighbour-State on terms of close and lasting friendship. Peace is to the interest of both States ; indeed to the interests of the world. The Government of India's approach to the Security Council is inspired by the sincere hope that through the prompt action of the Security Council peace may be restored.

15. The text of this reference to the Security Council is being telegraphed to the Government of Pakistan."

P.P. Pillai,
Representative of India
to the United Nations.

Pakistan's Reply And Counter-Complaint

The Text of letter dated 15 January 1948 (S/646) from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General of the U. N concerning the situation in Jammu and Kashmir :

'Sir,

I have the honour to forward the following documents ;

Document I — being Pakistan's reply to the complaint preferred by India against Pakistan under Article 35 of the Charter of the United Nations.

Document II — a statement of disputes which have arisen between India and Pakistan and which are likely to endanger the maintenance of international peace and order. Pakistan being a Member of the United Nations has the honour to bring these to the attention of the Security Council under Article 35 of the Charter of the United Nations.

Document III — which contains a statement of the particulars of Pakistan's case with reference to both the matters dealt with in Document I and II.

It is requested that these documents may be placed before the Security Council and that the Security Council may be requested to deal with the complaint referred to in Document II at the earliest possible date. It is further requested that all action required by the rules in connection with these Documents may kindly be taken as early as possible."

I have the honour to be,
Sir,
Your most obedient servant,
Zafrullah Khan
Minister of Foreign Affairs
Government of Pakistan

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Government of Pakistan

Document I

Pakistan's Reply To India's Complaint

1. The Government of India have under Article 35 of the Charter of the United Nations, brought to the notice of the Security Council the existence of a situation between India and Pakistan in which the maintenance of international peace and security is likely to be endangered. The situation in their view is due 'to the aid which the invaders consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the North-West are drawing from Pakistan for operations against Jammu and Kashmir State which acceded to the Dominion of India and is a part of India'. They have requested the Security Council 'to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India.' They have also threatened that if Pakistan does not do so, the Government of India may 'enter Pakistan territory in order to take military action against the invaders'.

2. The specific charges which the India Government has brought against Pakistan are :

(a) that the invaders are allowed transit across Pakistan territory ;

(b) that they are allowed to use Pakistan territory as a base of operatians ;

(c) that they include Pakistan nationals ;

(d) that they draw much of their military equipment transport and supplies (including petrol) from Pakistan, and

(e) that Pakistan officers are training, guiding and otherwise helping them.

3. While the particulars of Pakistan's case are set out in Document III, the Pakistan Government emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India. On the contrary and solely with the object of maintaining friendly relations between the two Dominions the Pakistan Government has continued to do all in their power to discourage the tribal movement by all means short of war. This has caused bitter resentment throughout the country, but despite a very serious risk of large-scale internal disturbances the Pakistan Government have not deviated from this policy. In circumstances which will become clear from the recital of events set out in Document III, it may be that a certain number of independent tribesmen and persons from Pakistan are helping the Azad Kashmir Government in their struggle for liberty as volunteers, but it is wrong to say that Pakistan territory is being used as a base of military operations. It is also incorrect that the Pakistan Government are supplying military equipment, transport and supplies to the 'invaders' or that Pakistan officers are training, guiding and otherwise helping them.

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Government Of Pakistan

Document II

Pakistan's Complaint Against India

1. For some time past a situation has existed between the Dominion of India and the Dominion of Pakistan which has given rise to disputes that are likley to endanger the maintenance of international peace and security. Under Article 35 of the Charter of the United Nations, the Government of Pakistan hereby bring to the attention to the Security Council the existence of these disputes and request the Security Council to adopt appropriate measures for the settlement of these disputes and the restoration of friendly relations between the two countries.

2. While the particulars of the background and circumstances out of which these disputes have arisen are set out in Document III, a brief statement of these disputes is :

A. In anticipation of the award of the Boundary Commission set up under the Indian Independence Act, 1947, to affect a demarcation of boundaries between East and West Punjab and East and West Bengal, an extensive campaign of 'genocide' directed against the Muslim population of East Punjab, Delhi, Ajmer, and the States of Kapurthala, Faridkot, Jind, Nabha Patiala, Bharatpur, Alwar and Gwalior, etc., was undertaken by the non-Muslim rulers, people, officials, police and armed forces of the States concerned and the Union of India beginning in the month of June 1947 which is still in progress. In the course of the execution of this well-planned campaign large numbers of Muslims—running into hundreds of thousands—have been ruthlessly massacred, vastly larger numbers maimed, wounded and injured and over five million men, women and children have been driven from their homes into neighbouring areas of Western Pakistan; Brutal and unmentionable crimes have been committed against women and children. Property worth thousands of millions of rupees has been destroyed, looted and forcibly taken possession of. Large numbers of Muslims have, by extreme violence and the threat of violence, been compelled to make declarations renouncing their faith and adopting the Sikh or Hindu faith. Vast numbers of Muslim shrines and places of worship have been desecrated, destroyed or converted to degrading uses. For instance in the State of Alwar no single Muslim place of worship has been left standing. Among other results of this campaign, the most serious has been to drive into Western Pakistan territory over five million Muslims in an extreme condition of destitution, a very large proportion of whom are faced with death owing to privation, disease and the rigorous climate of Western Pakistan during the winter. Apart from the appalling volume of human misery and suffering involved, the economy of Western Pakistan has been very prejudicially affected by the incursion of these vast numbers of refugees. These events have established that the religion, culture and language of 35 million Muslims within the Union of India, and indeed their very existence is in danger, as not only have the Government of India failed to provide adequate protection to the Muslims in areas which have been referred to above, but the police and the armed forces

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of the Union of India and the rulers of the States concerned, have actively assisted in the massacre and other atrocities committed upon the Muslim population.

B. In September 1947, the States of Junagadh and Manavadar acceded to, as they were entitled to do under the agreed scheme of partition and the Indian Independence Act, 1947, and thus became part of Pakistan and entitled to the benefits of the standstill agreement between Pakistan and India. As soon as the accession was announced India started a war of nerves against these two States and certain other smaller States in Kathiawar, whose intention to accede to Pakistan was well-known. A so-called 'Provisional Government, of Junagadh was set up in Bombay with the connivance of the Government of India and the active aid of its officials, and later transferred its headquarters to Rajkot in Kathiawar where it proceeded to occupy forcibly property belonging to the Junagadh State and ejected Junagadh officials therefrom. The forces of the Indian Union, along with the forces of certain Hindu States in Kathiawar in accession with the Indian Union invested the State of Junagadh in all directions on the landward side and rendered it practically impossible for the State authorities and for the Muslim population of the State to hold any communication with the outside world through normal channels. The running of Junagadh railways and the postal and telegraph services of the State vis-a-vis the rest of the country were virtually put an end to. By the adoption of various devices a state of panic was created inside the State, the object of which was to bring the administration to a stand-still. Eventually the forces of the Indian Union marched into the State under the excuse of an alleged invitation from the Dewan (Prime Minister) of the State. With the entry of these forces into the State was inauguated an orgy of massacre and loot directed against the Muslim population of the State. A reign of terror was thus set up which still continues.

This action on the part of the Government of India amounted to a direct attack upon and aggression against Pakistan which Pakistan was entitled to reply by force. Pakistan, however, refrained from taking military action in the hope that the situation could be satisfactorily resolved by conciliatory means- This hope has, in spite of a continued series of protests and representations by Pakistan, proved vain. If the situation is not now firmly handled and satisfactorily resolved there would be no course left open to Pakistan but to take appropriate military action to clear these States of India's armed forces and to restore the States to their lawful rulers.

C. The State of Jammu and Kashmir, which on the South and West is contiguous to Western Pakistan and has a Muslim population of nearly 80 per cent and a Hindu Ruler, entered into a standstill agreement with Pakistan in the latter half of August 1947. The territory of the State was purchased by the great grand-father of the present Ruler from the East India Company in 1846 for 7.5 million rupees and ever Since the Muslim population of this State has been oppressed and exploited by its Hindu Dogra Rulers. On several occasions the Muslim population has risen in rebellion against its oppressors, but these risings have always been mercilessly suppressed. The Maharaja was thus aware that any attempt by him to accede to the Union of India would not be tolerated

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by his people and would provoke violent reactions and uprisings throughout the State which he would be unable to control with the help of his own forces. Apparently he entered into the standstill agreement with Pakistan to secure his communications, all of which ran through Pakistan, and also a continuation of his supplies which could only be moved through Pakistan. The State obtained a narrow outlet into East Punjab and thus into the Union of India as the result of the most unfair and unjust Boundary Award of Sir Cyril Radcliffe. The Maharaja's own desire, as subsequent events have proved beyond a doubt, was to accede to the Union of India, but they dared note take that step for fear of the well-known attitude of the overwhelming majority of his people and the consequences to which such a step might expose him. The device adopted by him was to allay the feelings of his Muslim subjects by means of the standstill agreement and then to bring about a state of affairs which would furnish him with an excuse to call in the military aid of the Union of India and thus transfer to the Government of India the responsibility of dealing with his people. In order to carry this plan into effect massacres of the Muslim population of the State by armed bands of Sikhs and Hindus and by the forces of the Maharaja were started in the latter half of September and provoked risings of the Muslim population in different parts of the State. The tragic events and the happenings in East Punjab and the Sikh and Hindu States in and around that Province had convinced the Muslim population of Kashmir and Jammu State that the accession of the State to the Indian Union would be tantamount to the signing of their death warrant. When the massacres started the Muslim population of the State realized that the fate that had overtaken their co-religionists in Kapurthala, Faridkot, Nabha, Jind, Patiala, Bharatpur, and Alwar, etc., was about to overtake them also. A wave of terror thus ran throughout the State and the neighbouring districts of West Punjab and the North West Frontier Province. In their desperate situation the Muslim population of the State decided to make a final bid for liberty and indeed for their very existence, in which they had the full sympathy of their relations and fellow-Muslims in the neighbouring districts of Pakistan. Several thousands of the Muslim people of the State, particularly in the area of Poonch, had served in support of the cause of the United Nations during the second World War, and they decided to sell their lives dearly in the struggle with which they were now faced. The Maharaja made this the excuse to 'accede' to the Union of India and the Government of India thereupon landed its troops in the State without consultation with or even any notice to the Government of Pakistan with whom the State had concluded a standstill agreement and to the territories of which it was contiguous practically throughout the whole of its Southern and Western border. The Pakistan Government made several efforts to bring about an amicable settlement of the situation but everyone of these was rejected by the Maharaja and the Government of India. In the meantime the Muslim popoulation of the State are being subjected to an intensified campaign of persecution and oppression in areas which are in the occupation of the Indian forces.

The Muslim population of the State have set up an Azad (Free) Kashmir Government, the forces of which are carrying on their fight for liberty. It is possible that these forces have been joined by a number of independent tribesmen from the tribal areas beyond the North West Frontier Province and persons from Pakistan including Muslim refugees

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from East Punjab who are nationals of the Indian Union.

The allegation made by the Indian Government that the Pakistan Government is affording aid and assistance to the Azad Kashmir forces, or that these forces have bases in Pakistan territory, or that these forces are being trained by Pakistan officers, or are being supplied with arms or material by the Pakistan Government are utterly unfounded.

On the contrary, armed bands from the State have repeatedly carried out incursions and raids into Pakistan territory and the Air Force of the Indian Union has on several occassions bombed Pakistan areas causing loss of the life and damage to property. Protests made by the Pakistan Government to India have passed unheeded. Attacks by units of the Indian Air Force over Pakistan territory have been described as due to errors of judgment. These attacks still continue.

It has been announced by the Government of India that it is their intention after restoring 'order' in the State to carry out a plebiscite to ascertain the wishes of the people in the matter of the accession of the State to India or to Pakistan. Anybody having the most superficial knowledge of the conditions that have prevailed in the State during the last hundred years would not hesitate to affirm that a plebiscite held while the Sikh and Hindu armed bands and the forces of the Union of India are in occupation of the State and are carrying on their activities there, would be no more than a farce. A free plebiscite can be held only when all those who have during the last few months entered the State territory from outside, whether members of the armed forces or private, have been cleared out of the State, and peaceful conditions have been restored under a responsible, representative and impartial administration. Even then care must be taken that all those that have been forced or compelled to leave the State since the middle of August 1947 are restored to their homes as it is apprehended that in the Jammu Province and elsewhere whole areas have been cleared of their Muslim population.

D. Ever since the announcement of the decision to carry out a partition of the sub-continent of India into Pakistan and India, those responsible for giving effect to the decision on behalf of India have adopted an attitude of obstruction and hostility towards Pakistan, one of the objects being to paralyse Pakistan at the very start by depriving it of its rightful share of financial and other assets. Even in cases in which agreement was reached the implementation thereof was either delayed or sabotaged altogether. This has been illustrated conspicuously by India's failure to implement the clauses of the settlement arrived at between Pakistan and India early in December 1947 and announced on 9 December, comprising the division of military stores, cash balances and other matters. Particulars of some of the instances in which India has committed default in implementing its obligations are set out in paragraphs 26 to 29 of Document III.

E. In its complaint preferred to the Security Council under Art. 35 of the Charter of United Nations India now threatens Pakistan with direct attack.

3. To sum up, Pakistan's complaint against India is :—

1. that India has never wholeheartedly accepted the partition scheme and has, since June 1947, been making persistent

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attempts to undo it ;

2. that a pre planned and extensive campaign of 'genocide' has been carried out, and is still in progress against Muslims in certain areas which now form part of the Indian Union, notably East Punjab, Delhi, Ajmer, and the States of Kapurthala, Faridkot, Jind, Nabha, Patiala, Bharatpur, Alwar and Gwalior etc., which are in accession with India, by the non-Muslim Rulers, people, officials, police and armed forces of the States concerned and of the Union of India ;
3. that the security, freedom, well-being, religion, culture and language of the Muslims of India are in serious danger ;
4. that Junagadh, Manavadar and some other States in Kathiawar, which have lawfully acceded to Pakistan and form part of Pakistan territory have been forcibly and unlawfully occupied by the armed forces of the Indian Union and extensive damage has been caused to the life and property of Muslim inhabitants of these States, by the armed forces, officials and non-Muslim nationals of the Indian Union ;
5. that India obtained the accession of the State of Jammu and Kashmir by fraud and violence and that large-scale massacre and looting and atrocities on the Muslims of Jammu and Kashmir State have been perpetrated by the armed forces of the Maharaja of Jammu and Kashmir and the Indian Union and by the non-Muslim subjects of the Maharaja and of the Indian Union ;
6. that numerous attacks on Pakistan territory have been made by the Royal Indian Air Force, by armed bands from the Indian Union and the State of Jammu and Kashmir ;
7. that India has blocked the implementation of agreements relating to or arising out of partition between India and Pakistan including the withholding of Pakistan's share of cash balances and military stores ;
8. that under pressure from the Government of India, direct or indirect, the Reserve Bank of India is refusing to honour to the full its obligations as Banker and Currency Authority of Pakistan, and that such pressure is designed to destroy the monetary and currency fabric of Pakistan ;
9. that India now threatens Pakistan with direct military attack; and
10. that the object of the various acts of aggression by India against Pakistan is the destruction of the State of Pakistan.

4. The Pakistan Government request the Security Council :—

1. to call upon the Government of India

(a) to desist from acts of aggression against Pakistan ;

(b) to implement without delay all agreements between India and Pakistan including the financial settlement arrived at between India and Pakistan and announced on December 9, 1947, with regard to the division of the cash balances and

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military stores of the pre-partition Government of India and other matters ;

(c) to desist from influencing or putting pressure directly or indirectly on the Reserve Bank of India in regard to the discharge of its functions and duties towards Pakistan ;

2. to appoint a Commission or Commissions :

(a) to investigate the charges of mass destruction of Muslims in the areas now included in the Indian Union, to compile a list of the Rulers, officials, and other persons guilty of 'genocide' and other crimes against humanity and abetment thereof, and to suggest steps for bringing these persons to trial before an international tribunal ;

(b) to devise and implement plans for the restoration to their homes, lands and properties of Muslim residents of the Indian Union who have been driven out of or have been compelled to leave the Indian Union and seek refuge in Pakistan; to assist in the relief and rehabilitation of such refugees ; to secure the payment to them by the Indian Union of due compensation for the damage and injuries suffered by them and to take effective steps for the future security, freedom and well-being of Muslims in India and for the protection of their religion, culture and language ;

(c) to arrange for the evacuation from Junagadh, Manavadar and other States of Kathiawar which have acceded to Pakistan, of the Military forces and civil administration of the Indian Union and to restore these States to their lawful Rulers ;

(d) to assist the restoration to their homes, lands and properties of residents of the States referred to in (c) who have fled from, or have been driven out of such States, and for payment of compensation by the Indian Union for the loss or damage caused by the unlawful actions and activities of the military forces, civil officials and nationals of the Indian Union in these States ;

(e) to arrange for the cessation of fighting in the State of Jammu and Kashmir ; the withdrawal of all outsiders whether belonging to Pakistan or the Indian Union including members of the armed forces of the Indian Union ; the restoration and rehabilitation of all Muslim residents of the Jammu and Kashmir State as on 15 August 1947, who have been compelled to leave the State as a result of the tragic events since that date, and the payment to them by the Indian Union of due compensation for the damage and injuries suffered by them ; to take steps for the establishment of an impartial and independent administration in the State of Jammu and Kashmir, fully representative of the people of that State ; and thereafter to hold a plebiscite to ascertain the free and unfettered will of the people of the

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Jammu and Kashmir State as to whether the State shall accede to Pakistan or to India ; and,

(f) to assist in and supervise the implementation of all agreements arrived at between India and Pakistan in pursuance of the decision to partition the sub-continent of India and to resolve any differences in connection therewith.

5. In conclusion the Pakistan Government wish to assure the Security Council and the Government of India of their earnest desire to live on terms of friendship with India and to place the relations between the two countries on the most cordial, co-operative and friendly basis. This happy state of affairs so earnestly desired by Pakistan can only be achieved through a just and satisfactory setttement of the differences that at present unfortunately divide the two countries. Any attempt to settle any of these questions in isolation from the rest is bound to end in frustration and might further complicate a situation already delicate and full of explosive possibilities. Friendly and cordial relations can only be restored by the elimination of all differences that are at present generating friction and causing exacerbation. The disputes to which the attention of the Security Council has been drawn in this document are all inter-related and are specific manifestations of the spirit that is poisoning the relationship between the two countries. The restoration of this relationship to a healthy and munificent state depends entirely upon a just and fair settlement of every one of these disputes being simultaneously achieved. Pakistan hopes and trusts that this will be secured as speedily as possible through the Security Council.

Government of Pakistan

Document III

Particulars of Pakistan's Case

1. The Pakistan Government are glad that the Government of India have chosen to make a reference to the Security Council. In fact they have for some time been of the view that this is the only feasible method of peacefully settling the differences between the two countries. They have already unsuccessfully tried over a period of many months to seek a solution of the disputes between the two Dominions by the methods described in Article 33 of the Charter.

2. India has chosen to confine the reference to the Security Council to one single aspect of the Kashmir question which ignores the basic and fundamental issues affecting the State of Jammu and Kashmir. But even the Kashmir episode in all its aspects is but one link in the chain of events which has been unfolding itself ever since it became obvious that there was no solution of the Hindu-Muslim problem except the partition of India. A reference to the Security Council must therefore cover much larger ground and embrace all the fundamental differences between the two Dominions.

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3. The story begins as early as the middle of 1946, following the demonstration of Muslim solidarity throughout the country after the last Provincial elections. It then became clear that the achievment of Pakistan was the unalterable goal of the Muslims. The inevitability of the partition of the country which now became evident gave rise to a wave of deep resentment among the Hindu and Sikh population of the sub-continent. As a direct result of this, severe communal rioting occurred in several towns and provinces of India such as Calcutta, Noakhali, Bihar, Bombay, Garhmukteshwar, Rawalpindi, Lahore and Amritsar. Such communal strife had not been unknown previously, but what was astonishing was the unprecedented scale of killings that took place in Bihar and Garhmukteshwar proving beyond doubt the existence of a well-settled plan of extermination of the Muslims. It was during these disturbances that the Rashtriya Sewak Sangh came to be known as the author of some of the most brutal massacres. The orgy of blood, however, died down in due course, but, as later events proved, only temporarily.

4. The political activity which took place in the early part of 1947 produced a lull, but soon after the partition plan was announced on 3 June 1947, clear indications began to be received that the country was going to be plunged into a blood bath by the fanatical Sikhs and the militant Hindu groups headed by the Rashtriya Sewak Sangh who had made no secret of their opposition to the partition scheme in spite of its being accepted by the representatives of all the three major communities.

5. The preparations which the Sikhs were making for creating large-scale disturbances were known to the authorities, and in fact the Sikh leaders made no secret of them. So overwhelming was the evidence that the Viceroy was compelled to warn the Maharaja of Patiala, Master Tara Singh and the other Sikh leaders, that strong action would be taken against them. At a meeting which the Viceroy had in the beginning of July 1947 with Congress and Muslim League leaders and members of the Interim Government, it was decided to arrest immediately prominent Sikh leaders including Master Tara Singh and Udham Singh Nagoke. These arrests were, however, postponed on one ground or another and the Sikh plan was allowed to be put into operation with a carefully prepared attack on a special train carrying Pakistan Government employees and their families from Delhi to Karachi on 9 August 1947.

6. As the plan unfolded itself it became clear that the Sikhs encouraged and actively assisted by the Hindus had determined to liquidate by violent and bloody means the entire Muslim population of East Punjab. The object of the plan was to kill or drive out Muslims in order to settle in their place the Sikh population which was being pulled out of West Punjab under a planned scheme. The *modus operandi* was to disarm the Muslim population and then to leave it at the mercy of armed bands who are actively assisted by the Army and Police. There is abundant evidence that this plan had the full support and active assistance not only of the officers of the East Punjab Government but also of the Sikh States such as Patiala, Kapurthala, and Faridkot. Months before the partition of the county in August, 1947, Alwar and Bharatpur had set the example in liquidating their entire Muslim population by massacres, forced conversions on a mass scale and by driving out the rest. Patiala.

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Faridkot, Jind Kapurthala, in fact, all the Hindu and Sikh States in the East Punjab followed this example with added atrocities and fresh horrors. Malerkotla, a small neighbouring State in East Punjab, which has a majority of non-Muslims in the population and a Muslim Ruler provides a refreshing contrast, since there has been no disturbance of any kind in that State and the non-Muslim population has been perfectly safe. On the other hand, Kapurthala, which like Kashmir had a majority of Muslims in the population with a non-Muslim Ruler has today hardly any Muslim left. Similarly large tracts of Muslim-majority areas which under the Boundary Award had been most unjustly included in East Punjab were cleared of Muslims by massacres, forced conversions and expulsions. The whole country was ravaged by fire and sword, vast numbers were butchered and countless women were abducted. Indeed, decency forbids mention of some crimes committed against women. Millions were forcibly and ruthlessly driven out of their homes. The process went on sector by sector and culminated in the tragedy that was enacted in Delhi, the Capital of India. According to the Government of India themselves there was a breakdown of administration in the Capital for a number of days. The destruction and desecration of mosques, tombs and holy places, and forcible conversions on a mass scale were special features of these happenings. In Alwar, for example, every mosque has been destroyed.

7. While this vast scheme of 'genocide' was being put into execution in East Punjab and neighbouring areas, the Pakistan Government made repeated efforts to persuade the Union of India to arrest its course. A number of conferences were held between the two Dominions almost invariably at the instance of the Pakistan Government but while lip-service was paid to the necessity of restoring order, no serious effort was made by the Indian Government to implement their promises. In fact it became clear that they were determined to leave no Muslims in East Punjab. The Pakistan Government appealed to the Governments of the British Commonwealth to arrange a conference to find ways and means of removing this serious threat to the peace and security of the sub-continent but the Indian Government opposed this proposal on the ground of outside interference. The Pakistan Government also proposed that United Nations observers should immediately visit the disturbed areas but this too was opposed by India.

8. This plan of liquidation of the Muslim population is still proceeding despite the pious professions of the Government of India. The latest example of this is provided by the happenings in the holy city of Ajmer about which the Government of Pakistan had warned the India Government some weeks ahead. In this connection the Government of Pakistan find it difficult to believe that the Government of India are innocent of complicity in this vast scheme of 'genocide' started by the Sikhs and Hindus and encouraged and supported by persons in authority as a means of destroying the newly-created State of Pakistan. This is amply supported by the speeches and declarations of Hindu and Sikh leaders. The Muslims of India are being subjected to calculated insults and humiliations and pressure is being brought on them by prominent Hindu leaders including Premiers of Provinces to renounce their language and culture. All sorts of tests of loyalty are being demanded from them. The one on which particular emphasis is laid is that they should denounce

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Pakistan and try to undo the partition and express their readiness to fight Pakistan on the side of India in the event of war between the two Dominions, which test is an indication of the future intentions of the Government of India. It is a matter of deep regret that even today responsible members of Government of India, including the Prime Minister, openly declare their intention or hope of bringing Pakistan back into the Indian Union, well knowing that this can be done only through conquest by arms. The Pakistan Government have pointed out many times to the India Government that speeches and statements of this nature are calculated to excite and provoke the Muslims and thus impair friendly relations between the two countries ; but these representations have had no effect. Such an attitude can only mean that the Hindu and Sikh leaders while giving their agreement to the partition plan did so without any intention of permitting its implementation and, further, that India is determined to undo the settlement by all means at its disposal. In other words, Pakistan's very existence is the chief *causus belli* as far as India is concerned.

9. The events which took place following the announcement of the accession of Junagadh and Manavadar State to Pakistan, lend further support to the contention of the Pakistan Government that Government of India intend by all possible means at their disposal to destroy Pakistan.

10. In accordance with the agreed scheme of partition and the Indian Independence Act, 1947, Indian States were under no compulsion to accede to either of the two Dominions. Notwithstanding this clear provision the Government of India by a combination of threats and cajolery forced a number of States into acceding to the Indian Union. The Rulers of Junagadh and Manavadar were similarly threatened but they stood firm and acceded to Pakistan. This was the signal for India to launch with full force its attack, using every possible weapon in order to force the States, against their will, to change their affiliations. Protests were made to the Pakistan Government, pointing out that a State which had a Hindu majority population could not accede to Pakistan, as the country had been divided on a communal basis. Another reason given was that Junagadh, though accessible from Western Pakistan by a short sea passage, was not physically contiguous to Pakistan and that its accession to Pakistan was calculated to cause disruption in the integrity of India. Simultaneously with these protests, the Government of India put large bodies of Indian troops on the borders of Junagadh and encouraged the neighbouring Hindu States, which had acceded to India to do likewise. In clear violation of the standstill agreement, the Junagadh State was subjected to an economic blockade involving stoppage of all vital supplies, including food, cloth and coal into the State territory. Lines of communication including railway and telegraph were operated in such a manner that it became virtually impossible for the State or the Muslim population of Junagadh to communicate with the outside world by the usual means. A strong Press campaign calculated to destroy the morale of the State administration and to create panic among the population was launched both inside and outside the State.

11. Another line of attack was adopted by setting up a 'Provisional Government' with headquarters first at Bombay and later at Rajkot, which claimed the right to liberate the non-Muslim population of Junagadh State.

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The so-called 'Azad Fouj' of Provisional Government was created and armed by the men and officers of Indian Dominion. The 'Provisional Government' not only proceeded to seize by force State property in Rajkot but by violent means created conditions in which it became impossible for the State administration to function. At this point the Government of India sent their troops and occupied the State under the plea of an alleged 'invitation' by the Dewan. Since then an orgy of murder, arson, rape and loot has been let loose against the Muslims in the State by the military forces of India in exactly the same manner as in Northern India and Muslims have had to flee from the State. It should be added that as long as the State was under the administration of the Nawab, there was no molestation of any section of the population whatever. According to newspaper reports Mr. Samaldas Gandhi, the head of the so-called 'Provisional Government has openly thanked the Deputy Prime Minister of India for the assistance received. All this was done in utter disregard of the international code of conduct and ordinary neighbourly decency. In the interest of peace between the two Dominions Pakistan refrained from sending a single soldier to Junagadh. Occupation by force of Junagadh, which is Pakistan territory, is a clear act of aggression against Pakistan. Pakistan is entitled to send its forces into Junagadh to clear out the invading forces of India by military action and in the event of the present position continuing, would be under the necessity of taking such action in discharge of its obligation to the Ruler and the people of Junagadh, as under the terms of the Instrument of Accession executed between Junagadh and Pakistan, "Defence" is an obligation of Pakistan.

12. In the case of Manavadar not even the flimsiest show of justification was considered necessary and the State was taken under military occupation without any explanation being offered. A similar fate befell the Talukadari States of Sardar Garh, Bantva, Sultanabad and Mangrol. The unfortunate Rulers of some of these States have been kept in detention and have been subjected to considerable pressure to wean them from their affiliation to Pakistan.

13. Kashmir provides the culminating illustration of the hostility of the India Government to Muslims and Pakistan, and their determination to satisfy their imperialistic ambition of rule over the entire sub-continent by fascist tactics and use of naked force.

14. The State of Jammu and Kashmir was purchased by the great grand father of the present Dogra Maharaja from the East India Company in 1846 for the paltry sum of 7.5 million rupees. Nearly 80 per cent of the population of the State is Muslim but the administration, civil and military, is almost entirely in the hands of non-Muslims. The administration has been notoriously oppressive and retrograde and the Muslim population has been kept in a state of abject poverty and misery.

15. On the 15 August 1947, Jammu and Kashmir State, like other States, was free to accede or not to accede to either Dominion, It entered into a stand-still agreement with Pakistan under which inter-alia the administration of post and telegraph services was entrusted to Pakistan. Since all the natural outlets of the State fall into Pakistan, all outside supplies reached the State through Pakistan.

16. In view of the communal composition of the population of the State and the continuous oppression and degradation to which they had,

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throughout the period of Dogra rule, been subjected and against which they had risen a number of times, it was perfectly obvious to Maharaja that any attempt made by him to accede to the Union of India and thus to perpetuate the slavery of the overwhelming Muslim population of the State to Hindu rule would immediately provoke a widespread and violent uprising which he would be utterly unable to withstand with the help of his own forces. He therefore, chose to enter into a standstill agreement with Pakistan which served for the time being to allay the uneasiness of the Muslim population of the state and led them to hope that the standstill agreement would eventually ripen into full accession. This was however, only a device on the part of the Maharaja to gain enough time within which to create conditions which would furnish him with a plausible excuse to call in the forces of the India Union so that after trampling down all popular opposition with their help he might be able to accomplish his desire of acceding to the Union of India, thus putting upon the latter the responsibility to deal with his rebellious people.

17. During September 1947 disturbing news of repression and massacres of the Muslims of the State by the Sikh armed bands and Rashtriya Sewak Sangh assisted by the Hindu Dogra police and army of the State, started reaching Pakistan through Muslim refugees who sought asylum in Pakistan. Soon the number of refugees swelled and it became obvious that the happenings of the East Punjab and the States like Patiala and Kapurthala were being re-enacted in Jammu and Kashmir. At the same time the number of raids by armed bands from the State territory into Pakistan increased. The Pakistan Government repeatedly tried to discuss these questions with the Kashmir Government as well as the complaints of the Kashmir Government regarding supplies which owing to the breakdown of communications in the Punjab were not reaching the State in full. The Pakistan Government sent a representative of their Ministry of Foreign Affairs to Srinagar to discuss these matters with the State, but Mr. Mahajan, who had taken over charge as Prime Minister of the State on 15 October, refused to hold discussions with him and he had to return. On the very day that Mr. Mahajan took over charge, he addressed a telegram to the Prime Minister of Pakistan threatening that unless Pakistan agreed to an impartial enquiry into the matters in dispute between the two States he would be compelled to ask for outside assistance. The Prime Minister of Pakistan at once accepted the proposal for an impartial enquiry and asked the Prime Minister of Kashmir to nominate a representative for this purpose. The Government of Kashmir made no further reference to this matter. On 18 October, the Prime Minister of Kashmir in a communication to the Governor-General of Pakistan repeated his charges against Pakistan and concluded it by saying that he wished to make it plain that the attitude of the Government of Pakistan could be tolerated no longer and that he would be justified in asking for outside assistance. On 20 October, the Governor-General replied calling attention to the repeated attempts of Pakistan to maintain friendly relations with Kashmir and invited the Prime Minister of Kashmir to come to Karachi and talk things over with him. The Governor-General also pointed out that the threat to call outside help amounted almost to an ultimatum and showed that the real aim of the Kashmir Government's policy was to seek an excuse to accede to the India Union. In the opinion of the Government of Pakistan the course of these negotiations clearly shows that the

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Kashmir Government had never any intention of maintaining friendly relations with Pakistan and that, at any rate, as early as 15 October, they had made up their mind to call in outside assistance in concert with the Government of India.

18. Meanwhile the repression of Muslims in the State was increasing in intensity. Repression was followed by resistance particularly in the area of Poonch, which includes in its population 65,000 ex-soldiers who fought for the United Nations during the last world war. The resistance in its turn was sought to be put down with severer oppression until the Dogra savagery supported by the brutality of Sikhs and Rashtria Sewak Sangh created a reign of terror in the State. In sheer desperation the Muslim population of the State broke out into open revolt in several areas and declared their independence of the Maharaja. Many of them were ruthlessly cut down and acts of indescribable horror were perpetrated by the Dogra forces of the Maharaja assisted by the Sikhs and the Rashtriya Sewak Sangh. This state of affairs naturally aroused strong feelings of sympatby throughout Pakistan where the presence of millions of Muslim refugees from East Panjab (nationals of the Indian Union) and Indian States, was an ever constant reminder of the fate which was to overtake the Muslims of Kashmir. Consequently some of these refugees and other Muslims from contiguous areas who had numerous ties of relationship with the persecuted Muslims of the State, went across to assist their kinsmen in the struggle for freedom and indeed for existence itself. It is to be noted that the first outside incursion into the State occurred more than a week after the Prime Minister of Kashmir had threatened to call in outside assistance. It is clear that the sole responsibility for those events must rest on the Maharaja's Government who ordered the oppression of the Muslims as a matter of State policy on the model of what had happened in East Punjab and States like Patiala, Bharatpur, Alwar, etc. In conspiracy with the India Government, they seized upon this incursion as the occasion for putting into effect the pre-planned scheme for the accession of Kashmir as a *coup d'etat* and for the occupation of Kashmir by the Indian troops simultaneously with the acceptance of the accession by India. The Pakistan Government have not accepted and cannot accept the accession of Jammu and Kashmir to India. In their view the accession is based on violence and fraud. It was fraudulent inasmuch as it was achieved by deliberately creating a set of circumstances with the object of finding an excuse to stage this 'accession'. It was based on violence because it furthered the plan of the Kashmir Government to liquidate the Muslim population of the State. The accession was against the well-known wishes of an overwhelming majority of the population and could not be justified on any grounds whether moral, constitutional, geographical, economic, culture or religious.

19. For some time past the India Government have been engaged in misleading the world as to the true wishes of the people of Kashmir by playing up the National Conference and its leader Sheikh Abdullah who had been sentenced by the Maharaja's Government in 1946 to a long term of imprisonment on a charge of treason. He was released early in October 1947 as part of the plan to accede to India. On the other hand, the true leaders of the Muslims of the State whose only representative organization is the Muslim Conference are kept in jail on technical grounds. Their real offence is that being the true representatives of the majority of the Muslims of the State they favour the accession of the State to Pakistan.

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20. If the Government of India had extended to the Pakistan Government the courtesy of consulting them before embarking on their enterprise and suddenly landing troops in Kashmir, or even notifying Pakistan of their proposed action thus providing an opportunity for discussion and consultation, it might have been possible to avert the tragedy of Kashmir The events following the forcible occupation of the State by the Indian troops more than confirmed the worst fears of the Muslims. Massacres, atrocities and crimes against women, were now committed on a scale surpassing anything which the Maharaja's forces had previously perpetrated. Jammu Province which had a majority of Muslims has today very few Muslims left in areas in the occupation of the Indian forces. The conditions created by the military investigation of the Government of India served to swell the torrent of popular resentment in Pakistan to an uncontrollable degree.

21. In view of this background it is not surprising if independent tribesmen and persons from Pakistan, in particular the Muslim refugees (who, it must be remembered, are nationals of Indian Union) from East Punjab are taking part in the struggle for the liberation of Kashmir as part of the forces of the Azad Kashmir Government. In regard to the modern military equipment which is alleged to be in the possession of the Azad Kashmir forces, to the best of the information of the Pakistan Government, these forces are poorly equipped and such few modern weapons as they possess have either been captured from the Dogras and Indian troops or have been in their possession since the days of the British. The Pakistan Government emphatically repudiate the charge that they have supplied military equipment, transport and supplies to the 'invaders' or that Pakistan officers are training, guiding and otherwise helping them.

22. The military resistance of Azad Kashmir has no doubt come as an unpleasant surprise to the Indian Government who appear to have under-estimated the valour and patriotism of a people stirred to their depths by the horrors perpetrated upon them and their co-religionists in parts of the Indian Union. The character of the terrain, the climate, the familiarity of the Azad Kashmir forces (the bulk of whom are drawn from the State) with the country in which they are operating, their military traditions and the military skill acquired by them during their fight on the side of the United Nations have all combined to nullify to a large extent the vastly superior equipment of the Indian forces.

23. This recital of the events in Kashmir would be incomplete without a statement of the many efforts made by the Pakistan Government to reach a peaceful settlement of this question. Immediately after the intervention of the Government of India in Kashmir on 27 October the Governor-General of Pakistan arranged a conference to be attended by the two Governors-General, the two Prime Ministers of the Dominions and the Maharaja and Prime Minister of Kashmir. This conference fell through owing to the indisposition of Pandit Jawaharlal Nehru, the Prime Minister of India. A second meeting was arranged for 1 November but again at the last minute Pandit Nehru could not come and only the Governor-General of India came. During the discussion with the Governor General of India, the Governor-General of Pakistan put forward the following proposals :

1. To put an immediate stop to fighting the two Governors-General should be authorised and vested with full powers by

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both Dominion Governments to issue a proclamation forthwith giving forty-eight hours' notice to the two opposing forces to cease fire. Governor General of Pakistan explained that he had no control over the forces of the Azad Kashmir Government or the independent tribesmen engaged in the fighting but that he would warn them that if they did not obey the order to cease fire immediately the forces of both Dominions would make war on them.

2. Both the forces of the India Dominion and the outside 'invaders' to withdraw simultaneously and with the utmost expedition from Jammu and Kashmir State territory.

3. With the sanction of the two Dominion Governments the two Governors-General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State and arrange for a free plebiscite without delay under their joint control and supervision.

24. No reply was received to these proposals for many days. On 2 November, however, the Prime Minister of India made it clear in a broadcast that the India Government intended to force a decision by military action and to continue their occupation and the puppet administration set up by them.

25. While Pakistan is doing its best to maintain peaceful relations with India, there have been many attacks on Pakistan territory by armed bands from Jammu and Kashmir State territory supported by the forces of the Maharaja and those of the Indian Union. The Pakistan Government have sent repeated representations to the Indian Government on the subject but without any effect. The Royal Indian Air Force has also made numerous attacks on Pakistan territory causing considerable damage to life and property. The protests of the Pakistan Government have only elicited the assertion by the Government of India that these are minor incidents due to error of judgment by Indian airmen. The attacks have, however, continued to be persisted in.

26. India's treatment of Pakistan in respect of administrative, economic, and financial matters indicates the same attitude of hostility towards Pakistan. The process of partition itself was punctuated by all manner of obstruction aimed at depriving Pakistan of its rightfull share of financial and other assets, and even in cases in which agreement was reached the implementation was delayed or sabotaged. A large number of instances can be quoted in support of this statement but it will suffice to mention the following :—

1. division of military stores ;
2. division of cash balances ;
3. interference with the Reserve Bank so as to destroy the monetary and currency fabric of Pakistan.

27. To supervise the division of armed forces and military stores a Joint Defence Council was set up consisting of Lord Mountbatten, Governor-General of India, as Chairman, representatives of the two successor authorities – India and Pakistan – and Field Marshall Auchinleck, the Supreme Commander, as impartial authority to implement the decisions

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of the Joint Defence Council. It was estimated that the Supreme Commander would be able to complete his task by 31 March 1948. Within a very short time of the setting up of the Supreme Command, India created so hostile an atmosphere in Delhi that the Supreme Commander found it impossible to discharge his responsibilities and was forced to recommend the abolition of his headquarters long before he had completed his task. In spite of the protests of Pakistan, the Government of India succeeded in doing away with this impartial organization which could have ensured equitable distribution of the stores and proper reorganization of the armed forces. The India Government pledged their word at the time that Pakistan would get its due share of military stores. These assurances were supported by Lord Mountbatten who at a meeting of the Joint Defence Council held on 8 November stated that "he believed that in view of the unanimous endorsement given by the Indian Cabinet to the pledge that India would deliver to Pakistan the latter's full share of stores, Pakistan's principal objection had been met." This pledge like other similar pledges of the India Government has not been honoured and the slight trickle of military stores to Pakistan shows signs of stopping altogether.

28. The story of the division of cash balances is even more illustrative of the attitude of the Government of India. The cash balances of the undivided Government of India on 14 August 1947 were four thousand million rupees. Pakistan representatives demanded that out of these one-thousand million rupees should be handed over to Pakistan as its share. Since the matter could not be settled it was decided to refer the case to the Arbitral Tribunal. In the beginning of December 1947, however, all outstanding cases which had been referred to the Arbitral Tribunal were settled by agreement between the two Dominions and Pakistan's share of the cash balances was fixed at 750 million rupees. This financial settlement was reached on its own merits and was in no way linked with the Kashmir question or any other issue. Nevertheless India has since refused to hand over the amount until the Kashmir question is settled. India's action is made possible only by the fact that the Reserve Bank of India which holds the cash balances, is controlled and dominated by the India Government and is not functioning as it should, as a trustee of both the Dominions.

29. According to the arrangements agreed to at the time of partition, the Reserve Bank of India was to act as Banker and Currency Authority for the Indian Union and Pakistan. As it was realised that it would take some time for Pakistan to establish its own Currency and Banking Authority and to substitute its own currency for the common currency of the pre-partition India which is in use all over the sub continent, it was agreed that Pakistan's own currency should commence coming into use from 1st April 1948, but that a separate Currency Authority should be set up by Pakistan by 1 October 1948. On the suggestion of the Reserve Bank, made before the partition, it was agreed that :

(a) so long as there were notes available in the Banking Department, Pakistan should be freely allowed ways and means advances on payment of interest at one-half per cent and the only limitation on these ways and means advances should be the availability of notes in the Banking Department ; and

(b) that when ways and means advances were needed by Pakistan to meet its requirements which could not be otherwise met out

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of its cash balances or ways and means advances, Pakistan should be able to have its currency expanded against its own ad' hocs. The limits for such ad' hocs was fixed at 30 million rupees. It was agreed as a part of financial settlement between India and Pakistan announced on 9 December 1947, that India would not object to the removal of this top-limit if the Reserve Bank did not raise any objection. Such ad'hocs were to be retired against the Pakistan share of the assets of the Reserve Bank in its Issue Department.

Under pressure from the Government of India, direct or indirect, the Reserve Bank is now refusing to the full its obligation. This pressure is continuing and is designed to destroy the monetary and currency fabric of Pakistan, thus endangering the safety of the State.

30. Not content with these various acts of hostility and aggression against Pakistan, the Government of India now threaten Pakistan with a direct military attack.

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Section VI

Early Security Council Resolutions

India's complaint against Pakistan (S/628) was formally admitted to the agenda of the Security Council at its 226th meeting held in New York on January 6, 1948. The President of the Council, F. Van Langenhove (Belgium) had, however, before the meeting of the Council, sent to the Foreign Ministers of India and Pakistan "an urgent appeal to refrain from any step incompatible with the Charter and liable to result in an aggravation of the situation, thereby rendering more difficult any action by the Security Council", and the two Governments had, in their replies, assured him that they would refrain from any action which might be contrary to the Charter.

Pursuant to Article 31 of the U. N. Charter, the representatives of India andPakistan were invited to participate in the discussion on the request of the Pakistan Government (S/629) for adjournment of the debate to allow reasonable time to the Foreign Minister of Pakistan to reach New York. M. Hasan Ispahani representing Pakistan sought adjournment till January 15, 1948, while the Indian representative P.P. Pillai, thought the adjournment need not be that long. The Security Council, however, conceded the Pakistan request and fixed January 15, 1948 for its next meeting to debate "the Jammu and Kashmir Question." M. C. Setalvad, and Mohd. Zafrullah Khan, had been designated as their representatives to the Council by India and Pakistan respectively. Setalvad, however, did not participate in the first meeting of the Council on January 6.

For the main debate on Kashmir the Government of India nominated N. Gopalaswami Ayyangar, a former Prime Minister of Jammu and Kashmir State, and at that time Minister without portfolio in the Central Cabinet, as its principal delegate, and M. C. Setalvad, the Attorney-General of India and Sheikh Mohd. Abdullah, the Head of the Emergency Administration in Kashmir, as his altenrates. The delegates of other nations in the Security Council were : Van Langenhove (Belgium), Sir Philip J. Noel Baker (U. K.), General A. G. L. McNaughton (Canada), Dimtruz Manuilsky with Tarasenko (Ukranian S.S.R.), De La Tournelle (France), El Khouri (Syria), Warren Austin (U.S.A.), Andrei Gromyko (USSR), Gonalez Fernandez with Lo Pez (Columbia), Ambassador Jose Arce (Argentina) and Hsia (China).

The Security Council heard Gopalaswami Ayyangar (India) on January 15, and the Pakistan Foreign Minister, Zafrullah Khan, on January 16 and 17. Ayyangar said that India had been compelled to bring the Kashmir question before the Security Council because of its failure to reach agreement in direct negotiations with Pakistan owing to "Pakistan's intransigence and lack of cooperation." He stressed the urgency of the question "not only to safeguard the residents of the State but to avoid the

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risk of war between India and Pakistan'' and requested the Security Council to "use its influence and power to persuade the Government of Pakistan to prevent its nationals from participating in the raids and deny aid to the invaders.''

'On the question of accession,' Ayyangar stressed, 'the Government of India has always enunciated the policy that in all cases of dispute the people of the State concerned should make the decision. In accepting the accession (of Jammu and Kashmir) they refused to take advantage of the immediate peril in which the State found itself and informed the Ruler that the accession should be settled by plebiscite as soon as peace had been restored.'

He further emphasised "the question of the future States of Kashmir vis-a vis her neighbours and the world at large, and a further question namely whether she should withdraw from her accession to India, and either accede to Pakistan or remain independent, with a right to claim admission as a member of the U.N—all this we have recognized to be a matter for unfettered decision by the people of Kashmir after normal life is restored to them.''*

The same point was stressed by Sheikh Mohd. Abdullah speaking in the Security Council on February 5, It is not at all disputed that we must have a plebiscite and that the accession must be ratified by the people freely and without pressure on this or that side,'' said he.**

The Pakistan Foreign Minister, in a five and a half hour speech which set up a new record for the length of speeches in the Security Council, refuted India's allegations against Pakistan and amplified Pakistan charges against India made in Documents submitted to the Council under cover of his letter dated January 15, 1948 (S/646). Sir Mohammed called for "the evacuation from Jammu and Kashmir of all elements foreign to the State, including tribesmen and Indian Army troops as the first step to a just solution of the question.

On January 17, 1948 the Security Council approved by nine votes its first resolution (S/651) on Kashmir submitted by Van Langenhove as the representative of Belgium. Ukranian Soviet Socialist Republic and the U.S.S.R. abstained from voting on the resolution which recognized the urgency of the situation, appealed to the two Governments to take measures to improve it and requested them to report to the Council any material change, occurring or impending, in the situation.

The Russian objections to the resolution were that it did not take the statements of India and Pakistan into account as it had been "drawn up before the representatives of India and Pakistan made their statements and was of little use". A. Gromyko participating in the debate said "we think that this question should be studied in greater detail and that a resolution should be adopted as soon as possible on the substance of the question, in order to rectify and improve the situation in Kashmir and to settle relations between India and Pakistan".* He was supported in his stand by the Ukranian Delegate. Argentinian Delegate, Jose Arce, also wanted something more effective but voted for the resolution.

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Early Security Council Resolutions

Immediately after the Security Council had adopted the resolution the British delegate, Noel Baker, proposed that the President meet the reprsentatives of the parties "to find common ground on which the structure of a settlement may be built". The suggestion was unanimously approved.

Accordingly, four successive monthly Presidents of the Security Council (Belgium, Canada, China, and Colombia, held conversations with the two parties. The resolutions moved during the period were the product of these conversations. Unfortunately, however, only one of them, the resolution of January 20, 1948 (S/654), moved by the representative of Belgium and supported by the representatives of U.K.. Canada, France, Syria, China, and Colombia, had the agreement of both the parties. The resolution of January 20, 1948, set up a three-member Commission to invesgtigate the complaints of the two parties concerning Kashmir, exercise mediatory influence likely to smooth difficulties, and investigate matters other than Jammu and Kashmir listed in the Pakistan complaint when the Security Council so directed. One member each of the Commission was to be chosen by India and Pakistan. Czechoslovakia was later selected by India and Argentina was chosen by Pakistan, while the U.S.A. was designated as the third member by the President of the Council on the failure of Argentina and Czechoslovakia to select a member of their common choice. Russia and Ukranian U.S.S.R. objected to the principle underlying the constitution of the Commission. They wanted the Commission to be composed of members of the Security Council only.

On January 22, 1948, the Indian delegate, Gopalaswami Ayyangar, objected to a change in the agenda from the "Jammu and Kashmir Question to the "India Pakistan-Question." Philip Noel Baker (U.K.) supported the Indian contention that the Jammu and Kashmir Question should be dealt with first. Gromyko (USSR) also expressed surprise at "the Jammu and Kashmir Question" having disappeared from the agenda. Jose Arce (Argentine) El Khouri (Syria), and Lopez (Colombia), however, considered that the President was right in having changed the heading to the "India-Pakistan Question" following the receipt of Pakistan Foreign Minister's letter of January 20, 1948, (S/655) as the questions listed in the Pakistan and Indian complaints were interlinked and it was a well-known judicial practice to join claims and counter-claims in a suit. Philip Noel Baker, thereupon, withdrew his proposal for listing Junagadh and other Questions as a separate item on the agenda and accepted the change on the understanding that the Jammu and Kashmir question would be dealt with first. The Indian delegate also had no objection to items in the Pakistan complaint being considered at a later stage although, in his opinion, there was nothing in the complaint to endanger international peace and security The change to the "India-Pakistan Question" was accordingly approved on the understanding that "the Kashmir Question" would be discussed first as a particular case of the general India-Pakistan dispute though this would not mean that consideration of the other issues in the Pakistan complaint would be postponed until consideration of the Kashmir question had been completed."

Further charges and counter-charges against each other mainly of communal nature, were made by representatives of India and Pakistan at the meetings of the Security Council on January 23 and 24. As a result

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of conversations with the President, India and Pakistan submitted their proposals for the settlement of the issue. India proposed immediate cessation of hostilities and withdrawal of tribesmen and Pakistan nationals; restoration of normal conditions (in about six months' time) in the State during which those who had left the State should be allowed to return; and the convening of a National Assembly to form a National Government to conduct the plebiscite on the issue of accession. Pakistan proposed immediate formation of an impartial Interim Administration in Kashmir, the withdrawal of all troops from Kashmir, the return of refugees and the conduct of a free and impartial plebiscite. All these measures to be undertaken by the U. N. Commission.

Various draft resolutions were moved in the Security Council between January 27, 1948 and April 21, 1948 in the hope of getting the parties to an agreed resolution. The Council ultimately approved its resolution of April 21 (S/726), increasing the membership of the Commission to five and listing the measures necessary to secure a free and impartial plebiscite in the State. Neither India, nor Pakistan, was satisfied with the resolution and each intimated to the Council its inability to accept the various provisions to which it had taken exception during the debate in the Council. The resolution, however, is one of cardinal importance and has been the principal term of reference for various U. N. representatives who ever since have tried to bring about a settlement of the issue between the two parties.

The resolution recommended to the Government of Pakistan to secure the withdrawal of tribesmen and Pakistan nationals from Kashmir, and to the Government of India subsequently to withdraw its troops in stages to be agreed upon with the Commission to bring their number to the minimum required for the maintenance of law and order. It also called for the constitution of a coalition Government in Kashmir when the plebiscite is undertaken, and the appointment of a Plebiscite Administrator to be nominated by the Secretary-General to conduct the plebiscite. For the maintenance of law and order, personnel recruited locally was to be used and if the local forces were found to be inadequate then the Commission was to be entitled to use "subject to the agreement of India and Pakistan such forces of either Dominion as it deems effective for purpose of pacification" India strongly objected to this provision and insisted on its right to defend the whole State as it formed part of the Union.

On June 3, 1948 the Security Council approved a Syrian resolution (S/819) enlarging the terms of reference of the Commission so as to include therein other matters listed in the Pakistan complaint and directing it to proceed to the sub-continent at once.

India while objecting to both the resolutions said that it was willing to confer with the Commission. The Pakistan Government also expressed its willingness to cooperate with the Commission.

The Commission, which came to be known as the United Nations Commission for India and Pakistan, as finally constituted, consisted of the representatives of Argentina (selected by Pakistan), Czechoslovakia

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(selected by India) the U.S.A. (nominated by the President of the Security Council) and Colombia and Belgium (selected by the Council).

Appeal by the Security Council President

The text of telegram (S/636) dated January 6, 1948 sent by the President of the Security Council, F. Van Langenhove (Belgium), to the Minister of Foreign Affairs of India and Pakistan.

"The Security Council is on the point of undertaking the examination of the request submitted to it by India, which invokes Article 35 of the Charter of the United Nations. Prior to such examination and without prejudice to any decision on the part of the Council, I venture, as President of the Security Council, to address an urgent appeal to each of the two States which appear to be most closely concerned in the matter to refrain from any step incompatible with the Charter and liable to result in an aggravation of the situation thereby rendering more difficult any action by the Security Council.

I am addressing the same communication to the Minister of Foreign Affairs of Pakistan/India.

I have the honour to be etc."
F. Van Langenhove

Pakistan Request For Debate On Other Matters

The text of letter (S/655) dated January 20, 1948 from the Foreign Minister of Pakistan to the President of the Security Council.

New York.
20th January 1948.

"I beg to request that a meeting of the Security Council may be called at as early a date as possible to consider the situations (other than the Jammu and Kashmir situation) set out in my letter dated 15 January 1948 addressed to the Secretary-General.

All these situations have led to a very acute crisis between India and Pakistan. More particularly the continued occupation by the armed forces of India of the State of Junagadh, which is part of Pakistan, and the oppression and spoliation of its Muslim population constitute a *causus belli* and may necessitate military action on the part of Pakistan unless urgent action is taken by the Security Council."

(Signed). Zafrullah Khan
Minister of Foreign Affairs
Government of Pakistan.

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Appeal To India And Pakistan For Restraint

The text of Resolution submitted by the representative of Belgium and adopted by the Security Council at its 229th meeting held on 17 January 1948.

"*The Security Council*;

Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan ;

Recognizing the urgency of the situation ;

Taking Note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto ; and in which they affirmed their intention to conform to the Charter ;

Calls Upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation ;

And Further Requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council ; and consult with the Council thereon''.

———

UNCIP Appointment And Terms Of Reference

The text of resolution submitted by the representative of Belgium and adopted by the Security Council at its 230th meeting held on 20 January, 1948.

"*The Security Council*;

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security ; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency ;

Adopts The Following Resolution :

A. A Commission of the Security Council is hereby established composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected. Each representative on the Commission shall be entitled to select his alternates and assistants.

B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

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C. The Commission is invested with a dual function : (1) to investigate the facts pursuant to Article 34 of the Charter : (2) to exercise, without interrupting the work of the Security Council any mediatory influence likely to smooth away difficulties, to carry out the directions given to it by the Security Council, and to report how far the advice and directions if any, of the Security Council, have been carried out.

D. The Commission shall perform the functions described in Clause C : (i) in regard to the situation in the Jammu and Kashmir State set out in the letter of the Representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and (2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

F. The Commission, its members, alternate members, their assistants and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their task may require, and, in particular, within those territories which are theatre of the events of which the Security Council is seized.

G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary.

The Security Council's Plebiscite Plan

Text of resolution on the India-Pakistan Question submitted jointly by the representatives of Belgium, Canada, China Colombia the United Kingdom and United States of America, and adopted, by the Security Council at its 26th meeting held on 21st April 1948:

"*The Security Council* ;

Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir, having heard the representative of India in support of that complaint and the reply and counter-complaints of the representative of Pakistan;

Being strongly of the opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting;

Noting with satisfaction that both India and Pakistan desire that the accession of Jammu and Kashmir to India or Pakistan should be

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decided through the democratic method of a free and impartial plebiscite;

Considering that the continuation of the dispute is likely to endanger international peace and security;

Reaffirms the Council's Resolution of 17th January;

Resolves that the members of the Commission established by the resolution of the Council of 20 January 1948, shall be increased to five and shall include, in addition to the membership mentioned in that resolution, representatives of—and—and that if the membership of the Commission has not been completed within ten days from the date of the adoption of this resolution the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five;

Instructs the Commission to proceed at once to the Indian subcontinent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution, and to this end:

Recommends to the Governments of India and Pakistan the following measures as those which in the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.

A—Restoration of peace and Order

1. The Government of Pakistan should undertake to use its best endeavours:

(*a*) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State.

(*b*) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

2. The Government of India should:

(*a*) When it is established to the satisfaction of the Commisson set up in accordance with the Council's resolution of 20 January that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the

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minimum strength required for the support of civil power in the maintenance of law and order;

(*b*) Make known that the withdrawal is taking place in stages and announce the completion of each stage ;

(*c*) When the Indian forces shall have been reduced to the minimum strength mentioned in (*a*) above, arrange for consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles :

(i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State.

(ii) That as small a number as possible should be retained in forward areas.

(iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

3. The Government of India should agree that, until such time as the Plebiscite Administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and policy provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

4. After the plan referred to in paragraph 2 (*a*) above has been put into operation personnel recruited locally in each district should, so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for use of such forces of either Dominion as it deems effective for the purpose of pacification.

B.—Plebiscite.

6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the Ministerial level, while the plebiscite is being prepared and carried out.

7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.

8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial Plebiscite, including, for that purpose only, the direction and supervision of the State forces and police.

9. The Government of India should, at the request of the Plebiscite Administration, make available from the Indian forces such assistance as

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the Plebiscite Administration may require for the performance of its functions.

10. (*a*) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.

(*b*) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.

(*c*) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation for and the conduct of a free and impartial plebiscite.

(*d*) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.

(*e*) The Administrator should have the right to communicate direct with the Government of the State and with the Commission of the Security Council and, through the Commission, with the Security Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the plebiscite.

11. The Government of India should undertake to prevent and to give full support to the Administrator and his staff in preventing any threat, coercion or itimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government ofthe State to announce this undertaking as an international obligation binding on all public authorities and officials in Jummu and Kashmir.

12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

13. The Government of India should use and should ensure that the Government of the State also use their best endeavours to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who, on or since 15 August 1947, have entered it for a lawful purpose.

14. The Government of India should ensure that the Government of the State release all political prisoners and take all possible steps so that :

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(*a*) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens ;

(*b*) There is no victimization ;

(*c*) Minorities in all parts of the State are accorded adequate protection.

15. The Commission of the Security Council should, at the end of the plebiscite, certify to the Council whether the plebiscite has or has not been really free and impartial.

C.—General Provisions

16. The Government of India and Pakistan should each be invited to nominate a Representative to be attached to the Commission for such assistance as it may require in the performance of its task.

17. The Commission should establish in Jammu and Kashmir such observers as it may require for any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

18. The Security Council Commission should carry out the task assigned to it herein.

———

Pakistan's Views On April 21, Resolution

The text of letter dated April 30, 1948, from the Minister of Foreign Affairs of Pakistan, to the President of the Security Council :

"In compliance with your letter dated 22nd April 1948 I transmitted to my Government the resolution adopted by the Security Council at its 286th meeting held on 21st April 1948.

2. I have the honour to inform you that, in the view of the Pakistan Government, the measures indicated in the resolution referred to above are not adequate to ensure a free and impartial plebiscite on the question of the accession of Jammu and Kashmir State to India or Pakistan. The Government of Pakistan much regret that they have not been placed in a position to carry out the obligations sought to be laid upon them by the resolution.

3. The Pakistan Government note that a member of the Security Council observed at the meeting referred to above that appeals and proclamations by the Pakistan Government would not suffice to bring about compliance with the suggestion contained in Article (a) of the resolution and suggested that if they considered it necessary to use their forces in order to bring about compliance they should have the right to do so. It was, however, pointed out that Article 5 provided, in part, for this contingency and that if Pakistan forces were placed at the disposal of the Commission when the Commission found this necessary, that would be enough to cover the need.

4. The Pakistan Government note further that the expression "forward areas" in Artical 2 (c) is intended to mean areas which are at present closest to the line which separates the Indian forces from the forces in State which are now in arms against them, thus ensuring that Indian forces

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are not to advance further into the State beyond the areas at present in their occupation. The expression "base area" in Article 2 (c), it was stated, means areas outside the valley of Kashmir and outside the field of operation of actual fighting, from which the troops engaged in those operations are supplied.

5. The Pakistan Government also note that the purpose of Article 6 was stated to be that there should be organised in the State of Jammu and Kashmir an Interim Administration which would command the confidence and respect of all the people of the State and would be a symbol to the people on both sides that the Government of State was officially neutral on the issue of accession to India or Pakistan. While on the one hand the suggestion that the Muslim Conference and the Azad Kashmir should have a majority in the Council of Ministers was not found acceptable, on the other hand it was stressed that no advantage would be accorded to the group that holds power at the present moment. The Pakistan Government recognise that the criterion in the reconstitution of the Council of Ministers would not be the predominantly Muslim character of the population of the State but the neutralisation of the Government between the group which favours accession to Pakistan and that which favours accession to India. Each group is to choose its own representatives on the Council of Ministers in order to form Coalition Government which collectively would be completely neutral in so far as the issue of accession to India or Pakistan is concerned.

It is further noted that Article 6 is related to Article 1 (a) for the reason that if it is apparent that the Interim Administration, which would be formed in accordance with the above principles and which would prevail during the period immediately preceding and during the plebiscite, is a fair one, this would be helpful in inducing the tribesmen to withdraw.

The Pakistan Government also note that the Plebiscite Administrator has full authority to get such powers as he might deem necessary for the holding of a free and impartial plebiscite and, therefore, would be competent to deal with any offences under Article 11 and to remedy the situation created by the dismissal of employees of the State who were suspected of favouring accession to Pakistan.

7. Without casting any doubt on, or detracting in any way from, the authoritative character of the explanations referred to above, the Pakistan Government regret that the Security Council did not incorporate them in the text of the resolution in appropriate language.

8. Although, as stated above, the resolution is inadequate to secure the objectives set out in the preamble of the resolution and is, therefore, not acceptable to the Pakistan Government, they have authorised me to submit under protest and without prejudice the name of Argentina as Pakistan's nominee on the Commission.

9. I trust this will enable you to call upon Czechoslovakia and Argentina to proceed forthwith to designate the remaining members of the Commission."

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India's Rejection

Letter dated 7 May 1948, from the Representative of India, to the President of the Security Council:

"I have been directed to communicate to you the following message received by me today from the Government of India ;

"The Government of India have given the most careful consideration to the resolution of Security Council concerning their complaint against or dispute between the two countries regarding the State of Jammu and Kashmir. The Government of India regret that it is not possible for them to implement those parts of the resolution against which their objections were clearly stated by their delegation, objections which after consultation with the delegation, the Government of India fully endorse. If the Council should still decide to send out the commission referred to in the preamble to the resolution, the Government of India would be glad to confer with it."

———

UNCIP Additional Terms Of Reference

Resolution on the India-Pakistan Question submitted by the Representative of Syria and adopted at the 312th meeting of the Security Council on June 3, 1948 :

"*The Security Council,*

Reaffirms its resolutions of 17th January 1948, 20th January 1948 and 21st April 1948.

Directs the Commission of Mediation to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by the resolution of 21st April 1948.

And Directs the Commission further to study and report to the Security Council, when it considers appropriate, on the matters, raised in the letter of Foreign Minister of Pakistan, dated 15th January 1948, in the order outlined in paragraph D of the resolution of the Council dated 20th January 1948."

———

Nehru's Protest Against June 3, Resolution

Letter from the Representative of India to the President of Security Council transmitting a communication from the Prime Minister and Minister for External Affairs of the Government of India dated June 5, 1948 :

"I am directed to communicate to you the following message from Pandit Jawaharlal Nehru, Prime Minister and Minister for External Affairs, Government of India :

"The Government of India have just seen the text of the resolution on the India-Pakistan dispute adopted by the Security Council on 3rd June 1948. The resolution directs the U.N. Commission appointed under Council

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resolution of 21st April 1948 "further to study and report to the Security Council, when it considers appropriate. on the matters raised in the letter of the Foreign Minister of Pakistan, dated 15th January 1948." These matters, apart from the Kashmir issue, relate to (1) Junagadh, (2) genocide, and (3) agreements between India and Pakistan.

"2. With regard to these three matters it has been repeatedly stated on behalf of the Government of India that they do not constitute a threat to international peace, that they are outside the Council's jurisdiction, and that the last two, namely, the charges against India of genocide and non-implementation of agreements, are baseless. The Government of India are surprised that, in spite of the facts and arguments adduced on their behalf, the Council should have thought it fit to direct the Commission to study and report on these matters when it considers it appropriate. The Government of India wish to record their emphatic protest against this enlargement of the scope of the Commission's activities and to make it clear that they do not acquiesce in it.

"3. In the communication made to the Security Council by Mr. Vellodi on their behalf on 7th May 1948, the Government of India reaffirmed their objections to the resolution adopted by the Security Council on 21st April, with regard to Kashmir and pointed out that if in spite of these objections, the Council should decide to send out the Commission set up under the resolution, the Government would be glad to confer with it. The Government of India find themselves unable to go beyond this position. In other words, there can be no question of the Commission proceeding to implement the resolution on Kashmir until objections raised by the Government of India have been satisfactorily met. If the Commission is to visit India, they would like to know in advance the point or points on which it would wish to confer with them'.

———

Security Council President's Explanation

Letter from the President of the Security Council to the Prime Minister of India, dated June 9, 1948 :

"I have the honour to acknowledge receipt of your message concerning the "India-Pakistan Question", communicated to me in the letter dated 5th June 1948 from the Representative of India to the United Nations. This message was circulated to the Security Council and discussed at its 315th meeting held on 8th June 1948.

In accordance with the views expressed at that meeting I wish to explain that the Council has taken no position on the merits of the matters raised in the letter of the Foreign Minister of Pakistan, dated 15 January 1948, and maintains an open mind on these questions.

The resolution of 3rd June 1948, only instructs the Commission of Mediation to gather further information, when it deems appropriate, it preserves the order of the Commission's work outlined in paragraph (D) of the resolution of 20th January 1948, which places the situation in Jammu and Kashmir before the other situations set out in the letter of the Foreign Minister of Pakistan, dated 15th January 1948.

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Furthermore, the resolution of 3rd June 1948 directs the Commission to seek to accomplish in priority the duties assigned to it by the resolution of 21 April 1948; which relates to the situation in Jammu and Kashmir.

I have forwarded your message to the Commission of Mediation and asked them to communicate directly with you as regards your request for advance information on the point or points on which they wish to confer with your Government.

I wish to assure you that in its consideration of these questions the Security Council has been animated only by the desire to achieve a peaceful settlement and promote friendly relations between the Governments concerned."

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Section VII

With The UNCIP

The five-member Commission constituted as a result of the Security Council's Resolution of April 21, 1948 convened in Geneva on June 15, 1948 and after oonsiderable deliberation on the selection of its title, so as not to give even an unintentional offence to either party, gave itself the name of the United Nations Commission for India and Pakistan.

The Commission had as its members Ricardo J. Siri with Carlos A Leguizamon as his alternate for Argentina, Egbert Graeffe with Harry Graeffe as his alternate for Belgium, Afredo Lozano with Hernando Samper as his alternate for Colombia, J. Klahr Huddle with C Hawley Oakes as his alternate for the U.S.A., and Josef Korbel for Czechoslovakia with Erik Colban serving as personal representative of the U. N. Secretary-General. It arrived in Karachi on July 7, 1948 to begin its work under the terms of the Security Council Resolution of April 21, which was not accepted either by India or Pakistan.

The Commission to begin with had a hostile and suspicious Press in both the countries, The officials. however, assured it of their co-operation in the execution of its task. The Press also gradually became more cooperative and helpful.

On July 8, 1948, during a three-hour meeting with the Commission the Pakistan Foreign Minister, Sir Mohammed Zafrullah Khan, disclosed that three Brigades of the Pakistan Army had been engaged in operations in Kashmir since the first week of May 1948. The action had been taken primarily as a measure of self-defence against the spring offensive of the Indian Army which constituted a grave threat to the Security and Defence of Pakistan. The Pakistan Government had not intimated the fact to the Security Council as by the time the Pakistan Army was moved into the State the question had been referred by the Council to the Commission which was expected to begin its work any moment. Later the Pakistan Government made available to the Commission a detailed note prepared on April 20 1948 by General Sir Douglas Gracey about the Military aspects of the Kashmir situation recommending the moving of the Pakistan Army into the State. The Pakistan Authorities stressed the fact that it was not their intention to reconquer the areas captured by the Indian Army but to guard their Defence line, and prevent an influx of refugees as a result of India conquering whole of the State and thus present the world with a fait accompli.

The disclosure to quote Korbel "came as a bombshell to the Commission". Although officially they did not express any opinion the members of the Commission agreed between themselves that this constituted a material change in the situation from the time the matter was discussed in the Security Council. It also emphasized the need for the

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Commission to apply itself immediately to the task of bringing about a cessation of hostilites in the State. The Commission flew to New Delhi on July 9, 1948 to begin its discussions with the Government of India.

In Delhi the Commission was plainly told by the Prime Minister, Jawaharlal Nehru, that Pakistan was an aggressor and its first task should be to bring about a withdrawal of Pakistan nationals and troops from the State. The same point was stressed by N Gopalaswami Ayyangar, and the Indian Secretary-General, Sir Girja Shankar Bajpai, the latter further adding "that if Pakistan wanted a decision by force and that decision went against Pakistan, it could not invoke the machinery of the U.N. to obtain what it had failed to secure by its chosen weapon of force."

Later in a talk with Josef Korbel Nehru said "Pakistan must be condemned. I do not require any solemn, formal virdict, but a clear declaration about the Pakistan Army's presence in Kashmir and its withdrawal."*

Nehru's objection was met in the UNCIP Resolution of August 13, 1948, (S/995) designed to bring about cessation of fighting in Kashmir. The resolution which was in three parts-Cease-fire, the Truce Agreement and Plebiscite-called upon both Governments to issue cease-fire orders to apply to all forces under their control in Jammu & Kashmir at the earliest possible date, and to accept certain principles as the basis of the Truce Agreement. The first of these principles stated "As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State. Pakistan was also to use best endeavours to secure the withdrawal of tribesmen and Pakistan nationals not normally resident there. Pending its final solution, the territory evacuated by the troops would be administered by the local authorities under the close supervision of the Commission. When the Commission notified India that "Pakistan nationals and tribesmen have left and that Pakistan forces are being withdrawn; India was to agree to begin to withdraw the bulk of its forces in stages to be agreed upon by the Commission. Pending the acceptance of conditions for final settlement, the Indian Government would maintain its remaining forces considered necessary to assist in observinglaw and order, within the lines existing at the moment of cease-fire. The Commission also called upon the Governments of India and Pakistan to reaffirm their wish for a plebiscite, and upon acceptance of the Truce Agreement, to enter into consultations with the Commission to determine fair and equitable conditions whereby free expression of people's views would be assured.

India, after seeking certain, clarifications informed the Commission on August 20, 1948 of its acceptance of the resolution. Pakistan However, informed the Commission that it could not accept the resolution without certain reservations concerning the specific nature of the carrying out of a plebiscite.

The Commission decided that the introduction of these reservations went beyond its jurisdiction. It presented on November 5, 1948 to the

*Josef Korbel : "Danger in Kashmir" Page 129.

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Security Council an interim report (S/1100) covering the period June 15 to September 22, 1948, in which it stated that it had temporarily exhausted possibilities of further negotiations.

However, when the Security Council met on November 25, to consider the report, the Rapporteur stated that later conversations in Paris with Indian and Pakistani representatives seemed to open the way for possible settlement.

The Council decided to inform the Commission of its full support and endorsed the appeal made by the Commission to the Governments of India and Pakistan to refrain from any action which might aggravate the situation.

At the Commission's suggestion informal conversations were held between representatives of India and Pakistan regarding the conditions and the basic principles which should govern the holding of the plebiscite, the absence of which had been raised by Pakistan as its principal objection to the acceptance of UNCIP resolution of August 13, 1948.

As a result of these conversations, the Commission on December 11, 1948, communicated its proposals to the two Governments. The main points of these proposals were: that the accession of the State of Jammu and Kashmir would be decided by way of a free and impartial plebiscite, that the Secretary-General of the United Nations would nominate, in agreement with the Commission, a Plebiscite Administrator who would be a person of high international standing and who would derive from the Government of Jammu and Kashmir the powers which he considered necessary to organize and conduct a free and impartial plebiscite. The Commission further proposed that all human and political rights should be re-established and guaranteed; that the return of refugees should be organized by two Commissions to be nominated by the Governments of India and Pakistan respectively; that the question of the final disposal of the armed forces in the State of Jammu and Kashmir should be solved by the Plebiscite Administrator and the Commission in consultation with both Governments and the competent authorities; that the Plebiscite Administrator should report the result of the plebiscite to the Commission and to the Government of Jammu and Kashmir, and that the Commission should inform the Security Council whether the plebiscite had been free and impartial.

Both Governments after clarifications given by members of the Commission in discussions in Delhi and Karachi with their representatives accepted the proposals and declared the cessation of hostilities in the territory of the State of Jammu and Kashmir as from January 1, 1949. The United Nations Commission for India and Pakistan thereupon appointed 36 observers from various nations to report on the observance of the cease-fire agreement.

On January 5 the Commission, at Lake Success, adopted a formal resolution (S/1122) embodying the proposals. It presented its second interim report to the Security Council on January 10, 1949.

On July 27, full agreement on a cease-fire line was reached by military representatives of both Governments at Karachi, and was ratified by both Governments.

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With The UNCIP

On February 4, 1949, the Commission arrived back on the sub-continent of India and resumed discussions with the two Governments. A truce subcommittee, appointed by the Commission began work on March 9, to arrange the details of a formal truce agreement.

The Commission's military observers, meanwhile, reported that 6,000 to 8,000 tribesmen were being withdrawn from the forward areas of Kashmir to the North-West Frontier Provinces in accordance with the Commission's resolution of August 13, 1948. Also, two battalions of regular Pakistani troops and some Indian Air Force units were being withdrawn, and the final exchange of prisoners of war was being arranged with the aid of the International Red Cross.

A general agreement on a part of the permanent truce line, to follow closely the existing cease-fire line, was reached on March 12 and implemented six days later.

Fleet Admiral Chester W. Nimitz, USN, was nominated after prior consultations with and approval of the two Governments as Plebiscite Administrator by the Secretary-General on March 22. He was to be formally appointed by the Government of Jammu and Kashmir when the details of the plebiscite were settled, following the acceptance of permanent Truce Agreement.

Difficulties, however, soon arose with regard to the implementation of part II of the resolution. India and Pakistan were diametrically opposed to each other in their views on the disbanding of Azad Kashmir forces, the withdrawal of troops, and the control of Northern areas. India had accepted August 13 resolution with reservation about the control of Northern areas and the UNCIP had intimated it that the question could be discussed at the plebiscite stage. Pakistan which had not accepted the resolution at that time and had in fact on September 3, 1948 told the Commission that in her view the term evacuated territory included all territories under the effective control of the Pakistan High Command, did not consider itself bound by the Commission's assurance. Pakistan had also been told that there was no question of disbanding the Azad Kashmir forces except at the plebiscite stage. It strongly objected to India's attempt now to bring these issues under consideration at the truce stage.

The UNCIP drew up the terms of truce agreement on April, 15, and submitted them to the two Governments. On April 28, 1949, it revised its earlier truce terms and communicated these final truce terms to India and Pakistan. On July 29, at the instance of the Czechoslovak delegate, Oldrich Chyle, the Commission decided to call a meeting of Indian and Pakistani representatives to discuss the political aspects of the dispute and extended an invitation on August 9, to the two Governments to meet in New Delhi on August 17. At the suggestion of the Government of India the meeting was postponed to August 22. The invitation was, however, later cancelled by the Commission owing to the conflicting opinions of India and Pakistan on the proposed agenda for the conference which foredoomed the Conference to failure—India insisting on the inclusion of the question of Northern Areas and Azad Kashmir forces and Pakistan opposing it. The Commission then submitted on August 29, 1949 to the two Governments its memorandum on arbitration in regard to the settlement

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of their differences about the truce agreement. The proposal had been approved at the suggestion of the U.S. delegate on July 29, 1949, with Admiral Nimitz as the Arbitrator. President Truman (USA) and Prime Minister Attlee (U.K.) in private communications appealed to the Prime Ministers of India and Pakistan to accept the proposal. Pakistan accepted the plan but India rejected it and openly resented Truman-Attlee intervention. The Commission thereupon left the sub-continent to present its third and final report to the Security Council.

It analysed the unresolved political issues and the position of India and Pakistan on them. Broadly speaking, the position with regard to the Azad Kashmir forces-forces predominantly Muslim in revolt against the Maharaja's Government and resisting the accession of Kashmir to India, the withdrawal of troops and the Northern Areas was as follows :—

When the Commission adopted its resolution of August 13, 1948 the Azad Kashmir forces did not appear to constitute a regular force and it was believed that the disposal of these forces would not create a major difficulty once the regular Pakistani troops had been withdrawn. However, by the time the Commission adopted its resolution of January 5, 1949, it was realized that the Azad Kashmir forces controlled a large part of the State. India had emphasized the importance it attached to the disbanding and disarming of these forces as a condition vital to the holding of a plebiscite. The Commission had agreed to such a disbandment and, in its resolution, stated that the final disposal of these armed forces would be determined by the Commission and the Plebiscite Administrator "in consultation with the local authorities."

India subsequently insisted that agreements for the disbanding and disarming of the Azad forces be reached before withdrawal of the bulk of the Indian forces. If these forces were not disbanded, it would be necessary for India to maintain larger forces than othetwise needed to preserve security in the territory under its control. It maintained that there should be no distinction between the Pakistan regular forces and the Azad forces which had been armed, officered and trained by the Pakistan army. India was prepared to consider the establishment of Civil Armed Force to maintain law and order in the Azad Kashmir territory.

Pakistan demanded a strict adherence to the terms of the August 13 resolution that the Azad forces should not be treated as a part of the Truce Agreement but only when the final disposal of the forces remaining on the Indian side of the cease-fire line came to be considered. It proposed a reorganization with only a minor reduction and regrouping of the Azad forces on the principle of creating a military balance in the State once the Pakistan regular troops had been withdrawn. Any reduction, it held, should be conditional upon the further reduction of Indian and State forces.

As regards the withdrawal of troops, India maintained that the first step must, in accordance with the Commission's resolution of August 13, 1948, be the unconditional withdrawal of the regular Pakistan troops, which, it held, in entering Kashmir after the matter had been placed before the Security Council, had committed an act of aggression against India. It held that Pakistan had no right to be advised of the nature and

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timing of the withdrawal of the Indian forces which were matters for settlement between India and the Commission.

Pakistan maintained that the withdrawal of forces should be synchronised and that should be so arranged as to obtain a balance between the remaining forces. It stated that without information as to the withdrawal of the Indian forces it could not be assured of adequate synchronization. The Commission found difference on this point irreconcilable and pointed out that the two Governments were adhering to the latter of the clauses of the Commission's resolutions meeting their respective positions, that developments in the State necessitated a modification in the original plan of demilitarization and that any new plan must treat the problem as a whole.

As far as the sparsely inhabited mountainous Northern areas were concerned, India maintained that after Pakistan troops and irregulars had been withdrawn, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to India. Indian garrisons should, it maintained, be stationed in the territory. Pakistan contested the claim stating that the area had been under Pakistan control and should therefore be deemed "evacuated territory", to which officials of the State Government and India troops should not be given access. The Commission stated that although it was doubtful if the regular Pakistan army had been in "effective control" of the territory, the local population was in active and organized resistance to the Indian Army and that entry of Indian forces into this area would lead to a renewal of hostilities.

The Commission recommended that the Security Council designate as its representative a single individual with broad authority to endeavour to bring the two Governments together on all unresolved issues.

In a minority report, the Czechoslovak representative on the Commission Oldrich Chyle, cast aspersions on the "sagacity of the Commission" and alleged that "it had not been free from outside interference". He further alleged that the arbitration proposals of the Commission were placed at the disposal of the Governments of the U.S.A. and U. K., even before they had been presented to India and Pakistan. The Commission, he said, ' by its unauthorized proposal for the arbitration of the truce agreement overstepped the terms of its reference" and the cancellation of its invitation for a joint political meeting was a serious mistake".

The Czechoslovak delegate recommended the constitution of a Commission comprising all members of the Security Council so as to guarantee its complete independence. He also recommended a meeting between the representatives of India and Pakistan at Lake Success to reach understanding on differences in connection with the UNCIP Resolutions of August 13, 1948 and January 5, 1949 and suggested that the new Commission continue its work at Lake Success where the "atmosphere was much more suitable" than on the sub-continent.

Josef Korbel, Oldrich Chyle's predecessor as Czech delegate, however, makes this counter-charge against Chyle. "The Czechoslovak

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delegate sabotaged the Commission's efforts, encouraged intrigue among individual delegates, and reported regularly to Sheikh Abdullah on its confidential meetings".

Korbel also states that in his meeting with him in Srinagar, Sheikh Abdullah had expressed the view that partition was, the only solution of the Kashmir dispute, as a plebiscite would take about three years to be gone through and neither India nor Pakistan would agree to Kashmir being made independent.*

UNCIP Appeal To Parties

UNCIP Resolution of July 14, 1948 adopted at the 15th meeting held at Faridkot House, New Delhi.

"The United Nations Commission for India and Pakistan ;

In a spirit of goodwill and impartiality ; Confident of the desire of the Government of India and Pakistan to facilitate in all ways possible its efforts to bring about a peaceful settlement of the situation in the State of Jammu and Kashmir, and,

In order that there may be created an atmosphere which will encourage the cessation of hostilities,

Urges the Governments of India and Pakistan to take immediately those measures within their power which can improve the situation and to refrain from making or causing to be made any statements which might aggravate the situation."

UNCIP Resolution of August 13, 1948

"*The United Nations Commission For India And Pakistan* ;

Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir and,

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation,

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal :

PART I

Cease Fire Order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously

*Korbel : "Danger in Kashmir" Page 147

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a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B. The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir. (For the purpose of these proposals "forces under their" control shall be considered to include all forces, organised, and unorganised, fighting or participating in hostilities on their respective sides).

C. The Commander-in-Cheif of the Forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

D. In its discretion and as the Commission may find practicable the Commission will appoint military observers who under the authority of the Commission and with the cooperation of both Commands will supervise the observance of the cease-fire order.

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A. 1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B. 1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A 2 hereof have withdrawn thereby terminating the

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situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.

2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C. 1. Upon signature the full text of the Truce Agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

———

Nehru's Letter on August 13, Resolution

The text of letter dated 20 August, 1948, from the Prime Minister of India to the Chairman of the United Nations Commission for India and Pakistan.

"Excellency,

On *the 17th* of August, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government, and representatives of the Government of Kashmir whom we

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consulted, had felt as the result of a preliminary but careful examination of of the Commission's proposals.

During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion. indeed, there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on the 17th January, 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continued to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation and yet no information of this was given, so far as we know, to the Security Council.

The Commission will appreciate that the conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has alo created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of Pakistan armies into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

3. Since our meeting of the 18th August, we have given the Commission's resolution our most earnest thought. There are many parts of it, which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognise, however, that, if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed; we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency :

(1) That paragraph A 3 of Part II of the resolution should not be interpreted, or applied in practice, so as

(a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops,

(b) to afford any recognition of the so-called "Azad Kashmir Government", or

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(c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.

(2) That from our point of view the effective insurance of the security of the State against external aggression from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

(3) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organisation and conduct of the plebiscite or in any other matter of internal administration in the State,

4. If I understood you correctly, A 3 of Part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3 (1) of this letter. In fact, you made it clear that the Commission was not competent to recognize sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3 (2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

5. Finally, you agreed that Part III, as formulated, does not in any way recognise the right of Pakistan to have any part in a plebiscite.

In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

Accept, Excellency, the assurances of my highest consideration,

(Sd.) JAWAHARLAL NEHRU,
Prime Minister, India.

UNCIP Chairmans' Reply

The text of letter, dated 25 August, 1948 from the Chairman of the United Nations Commission for India and Pakistan to the Prime Minister of India :

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"Excellency,

I have the honour to acknowledge the receipt of your communication dated August 20, 1948, regarding the terms of the Resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on 14th of August 1948.

The Commission requested me to convey to Your Excellency its view that the interpretation of the Resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (C) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term "evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the Resolution and appreciates the spirit in which this decision has been taken.

I wish to avail myself of this opportunity to renew to Your Excellency the assurances of highest consideration."

(Sd.) JOSEF KORBEL,
Chairman.

Nehru On Northern Areas

The text of letter dated 20th August, 1948, from the Prime Minister of India, to the Chairman of the U.N.C.I.P., concerning Northern Territories.

"Excellency,

You will recall that in our interview with the Commission on the 17th August, I dealt at some length with the position of the sparsely populated and mountainous region of the Jammu and Kashmir State in the North. The authority of the Government of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles or in some places like Skardu which have been occupied by irregulars or Pakistan troops. The Commission's resolution, as you agreed in the course of our interview on the 18th, does not deal with the problem of administration or defence in this large area. We desire that after Pakistan troops and irregulars have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us. (The only exception that we should be prepared to accept would be Gilgit.) We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

Accept, Excellency, etc."

(Sd.) JAWAHARLAL NEHRU,
Prime Minister of India.

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Korbel's Views

The text of letter dated 25th August, 1948, from the Chairman of the U. N. C. I. P. to the Prime Minister of India, concerning Northern Territories.

"Excellency,

I have the honour to acknowledge receipt of your letter of 20 August 1948 relating to the sparsely populated and mountainous region of the State of Jammu and Kashmir in the North.

The Commisson wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its Resolution of 13 August 1948. It believes however, that the question raised in your letter could be considered in the implementation of the Resolution.

Accept, Excellency, etc:

(Sd.) JOSEF KORBEL,
CHAIRMAN

———

UNCIP Resolution of January 5

Resolution (S/1196) Adopted by the U. N. Commission for India and Pakistan on Jannary 5, 1949:

"*The United Nations Commission for India and Pakistan,*

Having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's Resolution of 13 August 1948.

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Part I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.
3. (a) The Secretary-General of the United Nations will in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

   (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organising the freedom and impartiality of the plebiscite.

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(c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.

4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine in consultation with the Government of India the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

(b) As regards the territory referred to in A 2 of part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

5. All civil and military authorities within the State and the principal political elements of the State will be required to cooperate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that,

(a) There is no threat, or intimidation, bribery or other undue influence on the voters in the plebiscite.

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party shall be safe and free in expressing their views and in voting on the question of the accession of the State to India and Pakistan. There shall be freedom of travel and exit.

(c) All political prisoners are released.

(d) Minorities in all parts of the State are accorded adequate protection, and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may

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require assistance and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted.

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations.

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of 1 January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948, and

Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the resolution of 13 August 1948 and by the foregoing principles."

Aide-Memoire No. I

(*S/1196 Annex 4*)

21 December 1948

"His Excellency Dr. Lozano, accompanied by his Alternate, Mr. Samper and his Excellency Mr. Colban, Personal Representative of the Secretary-General of the United Nations, met the Prime Minister yesterday. The Honourable Shri Gopalaswami Ayyangar and Sir G.S. Bajpai were also present. The discussions of the Commission's Plebiscite proposals fell into two parts (1) General, (2) Particular in reference to individual clauses.

2. The Prime Minister drew attention to Pakistan's repeated acts of aggression against India. In spite of the presence of Pakistan troops in Jammu and Kashmir which is Indian territory now, and the offensive action of Pakistan troops the Government of India had accepted the Commission's Resolution. In paragraph 143 of its report, the Commission had referred to its conference with the Prime Minister on the conditions attached by the Government of Pakistan to its acceptance of the Resolution of 13 August. As stated in paragraph 144 of the report, the Prime Minister had informed the Commission that he stood on his original premises that the Pakistan forces must be withdrawn from the State before the Government of India could consider any further steps. This had specific reference to an amplification of Part III of the Resolution of 13 August.

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Nevertheless, the Government of India had agreed to informal conversations in Paris which had resulted in the formulation of the proposals now put forward by the Commission. The Government of India naturally wondered how far this process of rejection of proposals put forward by the Commission by Pakistan and the adoption of a responsive attitude on the part of the Government of India towards the Commission's proposals could continue. The Commission must realize that there were limits to the forbearance and spirit of conciliation of the Government of India. The Prime Minister emphasized (1) that, if the Government of India were to accept the Commission's plebiscite proposals, no action could be taken in regard to them until Parts I and II of the Commission's Resolution of 13 August had been fully implemented ; (2) that in the event of Pakistan not accepting these proposals, or having accepted them, not implementing Parts I and II of the Resolution of 13 August, the Government of India's acceptance of them should not be regarded as in any way binding upon them ; (3) Part III of the Commission's Resolution of 13 August provided "that future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultation with the Commission to determine fair and equitable conditions whereby such free expression will be assured". The present proposals appeared to limit the method of ascertaining the will of the people regarding the future status of the State of Jammu and Kashmir to a plebiscite. While the Government of India adhered to their position in regard to a plebiscite, they had pointed out that, in view of the difficulties of holding a plebiscite in present conditions in Kashmir, other methods of ascertaining the wish of the people should also be explored. The Commission had itself recognized the difficulties of carrying out a plebiscite in Kashmir. The Government of India feel that the exploration of other methods should not be ruled out.

3. As regards (1) Dr. Lozano enquired whether there would be objection to the appointment of a Plebiscite Administrator until Parts I and II of the Resolution of 13 August had been implemented. Both he and Mr. Colban thought that the Plebiscite Administrator could do useful exploratory work even before arrangements for holding a plebiscite could be taken in hand. The Prime Minister pointed out that it was always open to the Commission to employ advisers or experts for work within its terms of reference. The Government of India, however, would regard the appointment of a Plebiscite Administrator, as such, premature until Parts I and II of the Resolution of 13 August had been implemented, Dr. Lozano accepted (2). As regards (3), he said that the Commission wished the possibility of a plebiscite to be explored first. Should the Plebiscite Administrator, however, find a plebiscite to be impracticable, the way would be open to consider other methods for ensuring a free expression by the people of Jammu and Kashmir of their wish regarding the future status of the State.

4. B. I. Preamble. The phrase "The Governments of India and Pakistan simultaneoulsy accept" is incorrect in that either Government may not accept the principles supplementary to the Resolution of 13 August. Even if both Governments accept them, the acceptance cannot be simultaneous. The wording should be changed accordingly.

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B. 3 (b) The question was raised whether the form of words employed was intended to give to the Plebiscite Administrator powers of interference in the administration of the State, e. g., by "direction and supervision of the State Forces and Police," mentioned in paragraph B. 8. of the Security Council's Resolution of 21 April 1948. Dr. Lozano said that this was not the intention of the Commission and that the words quoted above had been deliberately omitted. The Prime Minister pointed out that all the Plebiscite Administrator could in reason expect was that, for the purpose of organizing and conducting the plebiscite and ensuring its freedom and impartiality, the Government of Jammu and Kashmir should give him such assistance as he might require. Dr. Lozano said that a Plebiscite Administrator of international standing and commanding general confidence who would be appointed after consultation with the Government of India could be expected to act reasonably and that the Commission did not intend that he should usurp the functions of the State Government in the field of normal administration and law and order. His functions and powers would be limited to ensuring that the plebiscite was free and impartial.

B. 4. (b) The Prime Minister drew attention to the fact that the Azad Kashmir forces which had been armed and equipped by Pakistan and were under the operational command of Pakistan army ran into tens of thousands. Their presence in the territories referred to in A. 3 of part II of the resolution of 13 August even after demobilization, would be a constant threat to the territory under the control of Indian and State forces, a deterrent to the return of many refugees, and an obstacle to the free expression of opinion regarding the future status of the State by those who might be opposed to the accession of the State to Pakistan. Dr.Lozano pointed out that it was the Commission's intention that there should be large-scale disarming of these forces, though it would not be possible to require withdrawal, from these territories, of genuine inhabitants of these areas.

B. 6. (*a*) Dr. Lozano agreed that it was not the Commission's intention that the Pakistan Commission should operate outside Pakistan. Thus, the Pakistan Commission would not operate in the territory referred to in A, 3 of part II of the Resolution of 13 August. The Prime Minister then raised the question of the "free return" to the State of all citizens who had left it on account of the disturbances. He said that the tendency of Pakistan would be to push as many pepole as possible into Jammu and Kashmir. If the plebiscite was to be limited, as it should be, to genuine citizens of the State, the entry of persons claiming to be citizens into the State will have to be most carefully checked. How was this to be achieved ? Dr Lozano said that the Commission fully realized the necessity of an accurate and effective check but had not gone into details. Possibly those retuning to the State could be stopped and examined at the frontier. The Prime Minister pointed out that, considering the lengh of the frontier and the ease with which people could slip across the border over the mountain tracks, a check on the frontier would neither be easy nor effective, except by the employment of large forces.

Apart from the problem of entry, there is the even more important problem of the rehabilitation and protection of those who have left the State on account of recent disturbances. Homes have been destroyed, property has been lost, there has been wholesale dispossession of persons

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from the land that they used to cultivate. It is not enough to "invite" these persons to return to the State. They have to be given full security and to be housed, fed, and put in a position to maintain themselves. It may be necessary to lodge these returning citizens of the State, temporarily in camps for distribution to their homes. They could not, however, be expected to remain in relief camps for long or to take part in a plebiscite from such camps. The administrative and economic implications of this task were at once significant and onerous. They must receive full attention.

B. 6 (b) It is assumed that the Government of Jammu and Kashmir will decide whether or not a person entered the State for a lawfull purpose.

B. 7 (b) India is a secular State, the United Nations also are a secular organization. Pakistan aims at being a theocratic State. An appeal to religious fanaticism could not be regarded as legitimate political activity. Dr. Lozano agreed that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of Press and of speech.

As regards the freedom of lawful entry and exit, this must obviously be governed by B. 6 of the proposals. It is assumed that in the territory under their control entry and exit will be regulated by rules framed for the purpose by the Government of Jammu and Kashmir with due regard to the security of the State and the maintenance of law and order. Dr Lozano said that a system of permits would probably be necessary.

B. 7 (c) Persons guilty of ordinary offences against the law will not be regarded as political prisoners.

5. In all their negotiations the Government of India have emphasized the paramount need of ensuring the security of the State. The Commission recognized this in their Resolution of 13 August, they have also provided in 4 (a) of the plebiscite proposal that measures with regard to the final disposal of Indian and State forces will be taken with due regard to the security of the State. The Government of India wish to emphasize the supreme importance whicht hey attach to adequate provision for the security of the State in all contingencies.

Aide-Memoire II

(S/1196-Annex 4)

22nd December 1948

"His Excellency Dr. Lozano and His Excellency Mr Colban met the Prime Minister at 11-30 a.m. The Honourable Shri N. Gopalaswami Ayyangar, Sir Girja Shanker Bajpai and Mr. Pai were also present.

2. Dr. Lozano said that the aide-memoire of the conference which took place on Monday, 20 December, was a correct account of the proceedings. He suggested, however, that the phrase "large scale disarming" of the Azad Kashmir forces used in the portion of the aide-memoire dealing with B. 4 (b) of the Commission's plebiscite proposals did not, parhaps, represent the Commission's intention. What the Commission had in mind

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was the disbanding of these forces, disarming, it was assumed, would follow. The Prime Minister pointed out that disbandment was not the same thing as disarming. Pakistan had raised something like thirty-five battalions of 28,000 to 30,000 men who now formed part of the Azad Kashmir forces. The presence of such a large number of armed people, even if the regular formations were disbanded, would not be conducive, either to ensure the security of that part of Jammu and Kashmir which is under the control of Indian and State forces, or the security of those inhabitants of the territories referred to in A. 3 of part II of the Resolution of 13 August who did not fully subscribe to or share the political views of pro-Pakistan elements. Moreover, the question of the re-entry into these territories of State citizens who had left it on account of the present conflict had to be kept in mind. With such a large number of members of the Azad Kashmir forces under arms, former inhabitants of these territories who held different political views would not dare to re-enter and, thereforce, would be debarred from participation in a "free and impartial" plebiscite. In view of this explanation, Dr. Lozano agreed that the phrase "large scale disarming" should be regarded as correctly interpreting the Commission's intention.

3. Discussion then turned on B. 10 of the proposals. Dr. Lozano, answering an enquiry of the Prime Minister, said that the Commission did not contemplate that the Plebiscite Administrator should undertake any administrative functions in regard to the plebiscite until Parts I and II of the Commission's Resolution of 13 August 1948 had been implemented. Until such implementation, the conditions for the discharge of such functions would not exist. What the Commission had in mind was that discussions on details connected with the plebiscite might begin as soon as possible as this would create a good impression all around. Monsieur Colban supported this view on the ground that the announcement of a Plebiscite Administrator of high standing would have an excellent psychological effect. Monsieur Colban added that, of course, if difficulties arose in the implementation of Part II of the Resolution of the 13 August, the preliminary consultations regarding the functions of the Plebiscite Administrator and other detailed arrangements for the plebiscite would have to be deferred. The Prime Minister replied that, under the Commission's proposals, the Governments of India and Jammu and Kashmir assumed a great many responsibilities while Pakistan had to do practically nothing. The Governments of India and Jammu and Kashmir could not, in fairness, be expected to discharge any of their responsibilities regarding the plebiscite until there was satisfactory evidence that Pakistan was carrying out its obligations under Part II of the Resolution of 13 August. Moreover, once the present proposals had been accepted, the ithings left over for discussion with the Plebiscite Administrator wou d be (1) his functions and (2) detailed arrangements for carrying out a plebiscite. A consideration of (2) would clearly be impracticable until Parts I and II of the Resolutlon of 13 August had been implemented. Unless cease-fire was carried out and Pakistan forces, hostile tribesmen and Pakistan nationals who had entered the State for purposes of fighting had withdrawn, there could not be, ni the territories referred to in A. 3 of Part II of the Resolution of 13 August, any local authorities with whom plebiscite arrangements could be discussed. B. 9, as at present worded, could be interpreted to mean that

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consultations with the Plebiscite Administration should start immediately on the signature of the truce. This clearly was not feasible. Dr. Lozano and Monsieur Colban pointed out that when the paragraph in question was drafted, all these considerations were not presen t to the mind of the Commission. The Commission, according to Dr. Lozano had assumed that, since the Prime Minister of India had informed the Commission, two days after it had placed before him the conditions attached by the Government of Pakistan to their acceptance of the resolution of 13 August, that he stood on his original premises that the Pakistan forces must be withdrawn from the State before the Government of India could consider any further steps, action in relation to B. 9 would be feasible only after satisfactory progress had been made with the implementation of Part II of the Resolution of 13 August. He and Monsieur Colban agreed that the Commission was satisfied that satisfactory progress had been made with the implementation of Part II of the Resolution, that is after hostile tribesmen, Pakistan forces and Pakistan nationals who had entered Jammu and Kashmir for the purpose of fighting had withdrawn from State territory. Dr. Lozano said that this was the interpretation of B. 9 which they would present to the Pakistan Government in Karachi.

4. Dr. Lozano stressed the importance of appointing the Plebiscite Administrator as soon as possible. In view of the preliminaries that had to be gone through he thought that it might take some time before the Plebiscite Administrator was finally appointed. The Prime Minister pointed out that if Pakistan accepted the present proposals and carried out its obligations under Part II of the Resolution of 13 August promptly he saw no reason why the appointment should take much time. What he wished to emphasize was that there would be nothing which the Plebiscite Administrator could usefully do in India until progress had been made with the implementation of Part II of the Resolution as now explained by Dr. Lozano and Mr. Colban.

5. As regards alternative methods of ascertaining the wish of the people regarding the future status of Jammu and Kashmir Dr. Lozano said that the statement in paragraph 3 of the aide-memoire dated 21 December 1948 was substantially similar to his own record which reads 'Dr. Lozano said that it would be upto the plebiscite Administrator to report to the Security Council (through the Commission) if he found the plebiscite procedure to be impossible for technical or practical reasons. The Plebiscite Administrator and/or the Commission could then recommend alternative solutions.'

6. Concluding the discussion, the Prime Minister once again emphasized the need for security for displaced State nationals returning to the territory referred to in Part II A. 3 of the Commission's Resolution of 13 August. Equally important would be the task of rehabilitation of refugees returning to this area as well as to the part of the State under the control of the Government of Jammu and Kashmir. Hundreds of thousands of persons were involved. Not only organization and machinery but time and money would be needed to accomplish the formidable task of restoring these unhappy persons to what once was their home. Until this task was completed, the conditions for a free and impartial plebiscite would not exist. Dr. Lozano recognized importance of this matter and

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pointed out that it will have to be carefully gone into when the consultations on the details of the present proposals take place.

Appeal For Lessening Tension

The text of UNCIP Resolution of September 19, 1948 adopted at its 62nd meeting held at Srinagar (Kashmir).

"The United Nations Commission for India and Pakistan.

Having decided to leave for Europe to prepare an interim report to the Security Council on the present situation in the State of Jammu and Kashmir.

Hereby Resolves to appeal to the Governments of India and Pakistan to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful and final settlement, which both Governments have declared to be their most sincere and ardent desire".

UNCIP Clarifications to Pakistan*

Clarification of the United Nations Commission's Resolution dated 13th August, 1948 given by the Commission in writing and orally to the Pakistan Representatives.

PREAMBLE

In writing

(1) "The expression 'a final settlement of the situation' does not fall short of nor go beyond the terms of the Security Council Resolution of 21st April 1948 and is in harmony with it. The Commission, however, is not committed to a rejection of a peaceful solution which might be agreed upon by the two Governments, provided that such solution reflects the will of the people."

(Para 2 of Appendix to Commission's letter dated 27th August 1948).

PART 1-D

In writing

(2) The Commission reaffirms that according to its Resolution. United Nations neutral military observers will be posted on both sides of the cease-fire line with the object of ensuring that the conditions of the truce are adhered to. In case of a breach of any of these conditions, a report will be made to the Commission, and the Commission, on being satisfied that action in respect of the report is necessary, will call upon the authorities in either area to take the desired action."

(Commission's letter dated 3rd September, 1948).

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*Government of Pakisian UNCIP liaison office "Selection of Kashmir Documents issued in January 1949.

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UNCIP Clarifications To Pakistan

Orally

"It is the Commission's intention to post military observers on both sides of the cease-fire line, and complaints with regard to breaches of the truce agreement in the areas now occupied by Indian troops will be dealt with in the same way as complaints from the areas occupied by Pakistan troops."

(Mr. Korbel at a meeting held on 2nd September, 1948).

PART II.A. 3.

In writing

(3) "In connection with paragraph A3 of the Resolution the term 'evacuated territory' refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of Pakistan High Command, it being understood that the population of these territories will have freedom of legitimate political activity."

(Commission's letter of 3rd September, 1948).

(4) "The existence of the Azad Kashmir movement has not been ignored by the Commission, consideration thereof appearing in part II A3 of its Resolution of 13th August".

(Paragraph 2 (a) of Commission's letter dated 19th September, 1948).

(5) The resolution does not contemplate the disarming or disbanding of the Azad Kashmir forces."

(Paragraph 2 (c) of Commission's letter of 19th September, 1948).

Orally

The term "evacuated territory" means the area which is under the control of the Pakistan High Command, including for this purpose the Pakistan Army, the Azad Kashmir Forces, and tribesmen.

(Mr. Korbel at a meeting held on 2nd September, 1948).

"By "local authorities" we mean the Azad Kashmir people; though we cannot grant recognition to the Azad Kashmir Government."

(Mr. Korbel at a meeting held on 2nd September, 1948).

"Subject to the Commission's surveillance', the local authorities, will have full political and administrative control, and will be responsible for the maintenance of law and order and Security. Neither the Indian Government nor the Maharaja's Government of Srinagar will be permitted to send any military or civil officials to the evacuated area.

(Mr. Korbel at a meeting held on 31st August, 1948),

"As regards the term 'surveillance, 'we have used it deliberately in the absence of a better word. It does not mean actual control or supervision. All that we are anxious for is to appoint neutral observers to see that the local authorities carry out the truce agreement. If the local authorities do any thing against the spirit of the truce proposal, the observers will report the matter to the Commission, which will then endeavour to have it set right. No interference with the local administration is intended."

(Mr. Korbel at a meeting held on 2nd September, 1948).

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"We agree that there will be no change in the existing administration of Gilgit.

(Mr. Korbel at a meeting held on 2nd September, 1948).

"The Commission does not contemplate "surveillance" of the Gilgit Administration. The Commission has mainly in view points of contact between the two parts of the State, i. e., the places where the truce might be broken, especially areas where fighting is taking place. The Commission's intention is that neutral observers should be located at such sensitive points."

(Mr. Korbel at a meeting held on 2nd September, 1948).

We have gone as we could to meet the point of view of the Azad Kashmir people. We have tried to deal with the *de facto* situation. But we cannot lose sight of the fact that the State of Jammu and Kashmir still exists as a legal entity. We have to respect its sovereignty."

(Mr. Korbel at a meeting held on 2nd September, 1948)

'The Commission has made no demand either for the disarming or the withdrawal of the Azad Forces.'

PART II B 1 &2

In Writing

(6) "In accordance with Part IIB 1 of the Resolution, the Indian Government, when apprised that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir agree to withdraw the bulk of their forces from the State in stages to be agreed upon with the commission. Synchronisation of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission'.

(Paragraph 10 of appendix I to Commission's letter of 27th August).

(7) "As regards paragraphs B1 and B2 of Part II, the Commission while recognising the paramount need for security of the State of Jammu and Kashmir, confirms that the minimum strength required for the purpose of assisting the local authorities in the observance of law and order, would be determined by the Commission and the Government of India. The Commission considers that it is free to hear the views of the Government of Pakistan on the subject".

(Commission's letter of 3rd September, 1948).

Orally

"We recognise the need for the security of the State, but on the assumption that the danger of external aggression will have disappeared after the truce agreement, we agree that India should be allowed to retain only such troops as are required for the maintenance of law and order in the Indian occupied territory."

"The Commission will do its best to secure the withdrawal of the maximum number of Indian troops from Jammu and Kashmir and will permit the retention of only the troops needed for keeping law and order. The term 'bulk' means the total number of Indian forces minus those required for the maintenance of law and order."

(Mr. Korbel at a meeting held on 2nd September, 1948).

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UNCIP Clarifications to Pakistan

"In reaching its decision the Commission will take into account Clause 2 of the Security Council's Resolution of 21st April 1948. It is the Commission's intention that the bulk of the Indian forces should be withdrawn outside the State, and that reserves should be kept at the base."

(Mr. Korbel at a meeting held on 2nd September, 1948).

These proposals are made only for the duration of the truce, The position will be reviewed when an agreement is reached with regard to the final settlement. When the conditions for the plebiscite are settled, the Commission contemplates that the Indian Forces should be withdrawn further back, if not asked to evacuate the State altogether."

(Mr. Korbel at a meeting held on 2nd September, 1948).

The Commission will welcome any data which the Pakistan High Command may wish to furnish with regard to the minimum strength of the Indian Forces to be retained for purposes of law and order, but the final decision will be taken by the Commission in consultation with the Indian High Command."

(Mr. Korbel at a meeting held on 2nd September, 1948)

Part II B. 3

In Writing

(8) "Paragraph B3 of Part II of the Commission's resolution which relates to the Truce Agreement, is not intended to deal with the questions raised in paragraphs 11, 12 and 14 of the Security Council's Resolution of 21st April 1948. These questions, relating to the plebiscite will logically arise in the implementation of part III of the Commission's resolution of 13th August 1948."

(Paragraph 13 of appendix I to Commission's letter dated 27th August 1948).

(9). "Upon acceptance of the Truce Agreement, withdrawal of elements, mentioned in memorandum will be considered in the implementation of Part III and under the provisions of the Security Council's Resolution of 21st April 1948."

(Para I of appendix I to Commission's letter dated 27th August, 1948.)

Note:—The term "elements" refers to all Indian nationals who have gone into Jammu and Kashmir since 15th August 1947, otherwise than for a lawful purpose.

Orally

"The Commission felt that parts of Clauses 11 to 14 of Security Council's Resolution of 21st April relate to the plebiscite, and cannot be enforced at this stage."

(Mr. Korbel at a meeting held on 2nd, September 1948.)

"The Commission's Resolution neither contemplates nor excludes the possibility of withdrawal of Indian nationals during the truce period. We hope that this matter could be discused between the two Governments. The Security Council's Resolution contemplates withdrawal of these elements during the plebiscite period."

(Mr. Korbel at a meeting held on 2nd September 1948.

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"Sheikh Abdullah claims that his Government is representative of the people. The Commission is, therefore, asking him to announce publicly that human and political rights will be guaranteed by Government. If we later on find that his declaration is not being given effect to in actual practice, we will take up the matter with the Government of Jammu and Kashmir."

(Mr. Korbel at a meeting held on 2nd September 1948)

Part III

In Writing

"The Commission's idea is to create a sense of security and to allay fears and apprehensions among the people of Jammu and Kashmir."

(Mr. Huddle at a meeting held on 2nd September, 1948)

(10). The Commission will be guided by the terms of the Security Council's Resolution of 21st April 1948 setting forth the conditions for a plebiscite, subject to such modifications as the Commission might determine with the agreement of the Government of Pakistan and India."

(Commission's letter dated 3rd September 1948).

(11) "The Commission wishes to repeat that the individual explanations offered by the sponsors of the Security Council's Resolution do not form a part of that document and are not binding upon the Commission, but receive due consideration by the Commission in its deliberations."

(Para 2 (b) of Commission's letter of 19th September)

Orally

"Part III of Commission's Resolution does not mean anything other than Security Council's Resolution of 21st April 1948. In fact, the Commission has no right to put forward any other solution not having the agreement of the Government of India and Pakistan. We cannot redraft any part of the Resolution, but we are prepared to give you an interpretation in writing that what is intended is a plebiscite based on the Resolution of the Security Council, subject to any modifications mutually agreed upon."

(Mr. Korbel at a meeting held on 2nd September, 1948)

"A definite time-table for the achievement of a settlement has been fixed. As soon as the Truce Agreement is accepted by the two Governments, the Commission will initiate consultations with regard to the manner in which the future status of Jammu and Kashmir should be determined. The Commission has had constantly in mind the necessity for a plebiscite based on fair and equitable conditions and will do all in its power to ensure that this is brought about."

(Mr. Korbel at a meeting held on 31st August 1948)

"The interpretations given by the sponsors of the resolution represent the views of the individual members of the Security Council, and were not formally accepted by the Security Council. The Commission will no doubt be guided by these interpretations but it would not be possible to include this matter in our letter elucidating Part III of the Commission's Resolution."

(Mr. Korbel at a meeting held on 2nd September, 1948)

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UNCIP Clarifications of Dec. 11 Proposals

Memorandum embodying the clarifications given by Mr. A. Lozano of the Commission's proposals of 11 December 1948. (Drawn by Zafrullah Khan, Pakistan Foreign Minister, as agreed at a meeting between him and Mr. Lozano in Karachi on December 25, 1948)

"*General*

These proposals represent the considered views of the Commission in so far as the organization and conduct of the plebiscite is concerned, and should be accepted in their entirety. While the Commission does not close the door to further changes, and is not unwilling to consider counter-proposals no modifications or additions to these proposals can be entertained unless they are acceptable to the Commission and to the Governments of India and Pakistan.

Clase A

The Commission's resolution of 13 August 1948 will be interpreted in the light of the elucidations and clarifications given by the Commission.

Clause B 3 (A)

(i) The Plebiscite Administrator will be selected as soon as possible after the acceptance of these proposals.

(ii) The Plebiscite Administrator will be selected in consultation with the Governments of India and Pakistan, but the final decision will rest with the Secretary-General of the United Nations in agreement with the Commission.

(iii) The expression "The Plebiscite Administrator will be formally appointed to office by the Government of Jammu and Kashmir" does not mean that he will be an employee of the Government of Jammu and Kashmir, or subject to its control.

Clause B 3 (b)

By the expression "the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary", is meant that the Plebiscite Administrator will be competent to exercise such powers as he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality, and he shall be deemed to have derived those powers from the authorities concerned. The organizing and conducting of the plebiscite will be the responsibility exclusively of the Plebiscite Administrator.

Clause B, 4

(i) For "A 2" of part II of the resolution of 13 August in clause B, 4 (*b*) read "A 3."

(ii) The intention of the Commission is to ensure a large-scale reduction and disarmament, the exact scope of which will be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned.

Clause B, 6 (a)

(i) The objective of the Commission is to enable all citizens of the State who have left it on account of the disturbances since 15 August 1947

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to return to the State and to exercise all their rights as citizens of the State. The manner in which this operation will be carried out has not been examined by the Commission and is a matter for determination by the Plebiscite Administrator in consultation with the Government of India and Pakistan.

(ii) The proposals provide for two commissions, one operating in India and the other in Pakistan. The Commission has not, however, entered into a detailed study of the manner in which these commissions will operate and considers that it must be left to the discretion of the Plebiscite Administrator to adopt such other practical methods as may be necessary to give effect to the intentions of the Commission.

Clause B, 6 (b)

The object of this provision is to ensure the withdrawal of elements which have endangered or might endanger the maintenance of peace or order, and the refugees and other nationals of India and Pakistan who have entered the State since 15 August 1947, other than for a lawful purpose. The manner in which this objective will be achieved will be determined by the Plebiscite Administrator in consultation with the Governments of India and Pakistan.

Clause B, 7

The review of cases of officials dismissed on account of their political sympathies is not excluded from the scope of clause 7. The Commission, however, feels that this is a matter of detail, and should be taken up in connection with the consultations envisaged in clause B 10 of these proposals.

Clause B, 10

(i) The Plebiscite Administrator will begin his study of the problem and the recruiting of his staff as soon as possible after his nomination.

(ii) The discussion of details of these proposals will not, however, be started until the Truce Agreement has been signed, and the Commission is satisfied that implementation of part II of its resolution of 13 August is making satisfactory progress.

(iii) The formal appointment of the Plebiscite Administrator will be made, and he shall assume formal charge of his duties within the State, when it is found by the Commission that the cease-fire and truce arrangements set forth in parts I and II of its resolution of 13 August have been carried out."

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UNCIP Truce Terms

Truce terms transmitted to the Governments of India and Pakistan by the Commission (S/AC 12/295).

2 May 1949

I. Cease-Fire Line

A. The cease-fire line will be the line fixed by the Commission and, except as noted below, traced in yellow on the map annexed, and based

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upon the factual positions occupied on 1 January 1949 by the forces under the control of the Indian and Pakistan High Commands. Based also upon the same factual considerations, the line between *Chakothi* and *Tithwal* and from *Chorwan* to the north of *Dras*, shall be demarcated, as soon as possible, by the Military Adviser of the Commission. The cease-fire line shall eliminate all no-man's lands and shall be demarcated on the ground by agreement between the respective local Commanders, assisted by the Commission's Military Observers. The line shall, to the greatest extent possible, follow easily recognizable features on the ground.

B. The Commission's Military Adviser shall decide, without appeal, local adjustments of the cease-fire line in cases where no agreement is reached between the local Commanders.

C. The Commission will have Observers stationed where it deems necessary throughout the State of Jammu and Kashmir.

D. Observers will advise the Commission and/or the Plebiscite Administrator regarding developments in the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north. Without prejudice to the provisions of point 8 of the resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude upon advice from the Observers, or upon reports from the Government of India, that it is necessary for the defence of the area, the Commission and/or the Plebiscite Administrator may request the Government of India to post garrisons at specified points.

II. Withdrawal of Troops

A. The Government of Pakistan agrees :

1. To withdraw its troops from the territory of the State of Jammu and Kashmir in seven weeks as follows :

(*a*) During the first three weeks twenty infantry battalions, plus the corresponding proportion of artillery and supporting units.

(*b*) During the following fortnight the remainder of the Pskistan troops, with the exception of eight infantry battalions.

(*c*) By the end of the seventh week, all Pakistan troops, including their ammunition, stores and material, will have left the territory of the State.

2. That, having secured the withdrawal of the tribesmen from the territory of the State of Jammu and Kashmir, it shall secure the withdrawal of Pakistan nationals still in the territory of the State and not normally resident therein, who have entered the State for the purpose of fighting.

B. The Government of India agrees :

1. To withdraw the bulk of its forces from the State of Jammu and Kashmir in stages submitted by the Commission for the agreement of the Government of India. The withdrawal will begin as soon as the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals, not normally resident in Jammu and Kashmir territory who have entered the State for the purpose of fighting, have withdrawn, and that the Pakistan troops are being withdrawn from the State of Jammu and Kashmir.

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2. That the schedule of the withdrawal of Indian forces will be made public by the Commission with the schedule of the withdrawal of Pakistan forces immediately after the acceptance of these terms by both Governments.

C. The operations mentioned in the above paragraphs A and B will be carried out under the surveillance of the Commission through its Military Adviser.

III. General Provisions

A. The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B. Immediately upon the acceptance of these terms, the Commission would enter into consultations with the Government of India regarding the disposal of the Indian and State armed forces, and with the local authorities regarding the disposal of the armed forces in the territory to be evacuated by Pakistan troops, with a view to initiating implementation of point 4 (*a*) and (*b*) of the Commission's resolution of 5January 1949.

C. If, before expiration of the seven weeks contemplated in point II. A, decisions are reached in the consultations for the initial implementation referred to in III. B. above, the schedule of withdrawal of the Pakistan Army, as provided for in II. A. above, may be extended to three months in order to facilitate the implementation of decisions relating to point 4 (*b*) of the Commission's resolution of 5 January 1949.

D. All prisoners of war will be released within one month.

E. All land mines will be immediately lifted by the side which sowed them.

F. It will be made publicly known throughout the State of Jammu and Kashmir that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

G. These terms are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir.

H. These terms do not prejudice the functions and powers of the Plebiscite Administrator.

J. These terms will become effective and will be published by the Commission immediately upon their acceptance by both Governments.

Provisional Agenda

(For Joint Political Meeting of August 17 1949)

1. Adoption of the agenda,

2. Withdrawal of Pakistan armed forces from the State of Jammu and Kashmir (resolution of 13 August 1948, part II. A I).

3 Withdrawal of tribesmen and all Pakistan nationals normally resident in the State of Jammu and Kashmir who have entered the State for the purpose of fighting (resolution of 13 August 1948, part II, A 2).

4. Withdrawal of the bulk of the Indian Armed forces from the

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State of Jammu and Kashmir (resolution of 13 August 1948, Part II, B. 1, 2).

5. Related questions.

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India's Views On Truce Terms

Memorandum on the Government of India's point of view with respect to the Commission's Truce Terms of 28 April 1949.

Disbanding and disarming of "Azad Kashmir" forces (Truce Terms of 28 April 1949, paragraph III, B and C).

1. The Indian Government, in a letter of 18 May 1949, declared that both from the standpoint of the security of the State and the freedom and impartiality of the plebiscite, the disbanding and disarming of "*Azad* Kashmir" forces should not be left in a state of uncertainty or be hereafter the subject of challenge and dispute. It, therefore, declared it to be of the utmost importance (1) that the agreement of the, Government of Pakistan should be obtained then to the disbanding and disarming of the 32 battalions of "*Azad* Kashmir" forces, and (2) the discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the truce was signed. In the view of the Government of India decisions on a programme designed to achieve this objective should be taken as soon as possible, and (3) the phasing of the withdrawal of Indian troops should not be divorced from and should depend on the progress made with the actual disbanding and disarming of the "Azad Kashmir" forces.

2. In a letter of 17 June 1949 the Indian Government further stated that if, by the end of the 7 weeks referred to in III. C of the Commission's proposals, the Commission should find that the large-scale disbanding and disarming of the "Azad Kashmir" forces was impracticable, the conditions mentioned in point 2 of the Commission's resolution of 5 January 1949 would be deemed not to have been completed.

Treatment of the sparsely populated and mountainous areas in the north (Truce Terms, paragraph I D).

3. In its letter of 18 May 1949, the Government of India referred to the Prime Minister's letter to Mr. Korbel of 20 August 1948 [*S/1100, paragraph 10*], and maintained that the principle that Indian troops should garrison important strategic points should be accepted.

4. In a letter of 17 June 1949, the Indian Government declared that it was willing to occupy only a certain limited number of points, in the expectation that all Pakistan forces, regular and irregular, would be withdrawn from the State. Should this expectation not be realized or should a threat to the security of the State or the maintenance of internal order arise in the area from any other source, the Government of India should be free to garrison with their forces all or any other points previously mentioned.

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Pakistan's Reaction

5. In a letter of 17 June the Indian Government submitted a programme of withdrawal for the Indian forces. The Government of India has further maintained that such withdrawal plan as may subsequently be agreed upon with the Commission should not be communicated to Pakistan until a Truce Agreement has been arrived at.

Pakistan Views on Truce Terms

Memorandum on the Government of Pakistan's Point of view with respect to the Commission's Truce Terms of 28 April 1949.

Northern area (Truce terms of 28 April 1949, paragraph I D)

1. The Pakistan Government submits that the proposal contained in paragraph I D of the Truce Terms is not in accordance with the Commission's resolution of 13 August 1948, is unnecessary and, far from assuring peace and tranquillity in this area, is likely to create conditions of unrest and insecurity.

Withdrawal of troops (Truce Terms, paragraph II A, B and C)

2. The Pakistan Government states that it has already carried out an important part of its obligations in effecting the withdrawal of tribesmen and of almost all Pakistan nationals who had entered the State for the purposes of fighting. It is also ready to withdraw all Pakistan troops from the State of Jammu and Kashmir under the terms of the resolution of 13 August 1948. as elucidated to the Pakistan Government.

3. The Pakistan Government declares that without knowing the schedule of withdrawal of the Indian forces, on the basis of which a synchronized withdrawal of the two armies could be arranged, the Pakistan Government is not in a position to take a decision on the Commission's Truce Terms, the central feature of which is the withdrawal programme of the two armed forces.

Disposition of the Indian State Forces and the Azad Kashmir Forces (Truce Terms, paragraph III B and C)

4. The Pakistan Government declares that it is understood that it is the Commission's intention to associate the Plebiscite Administrator with the discussions under these paragraphs from the outset, even though he may not have been formally appointed to office by then. The Pakistan Army, during the extended time, would be able only to reorganize the Azad Kashmir forces so as to facilitate the implementation of decisions relating to point 4 (b) of the Commisaion's resolution of 5 January 1949, the actual implementation of the decisions to start only after parts I and II of the Commission's resolution of 13 August 1948 have been fully implemented.

General provisions (Truce Terms, paragrph III F and G)

5. The Pakistan Government trusts that the Commission will do everything possible for the restoration of human and political liberty in the State in actual practice.

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Cease-Fire Line Agreement

ANNEX. 26

Agreement between military representatives of India and Pakistan regarding the establishment of a cease-fire line in the State of Jammu and Kashmir (S/AC.12/TC.4)

[*Original text: English*]
29 July 1949

I. INTRODUCTION

A. The military representatives of India and Pakistan met together in Karachi from 18 July to 27 July 1949 under the auspices of the Truce Sub-committee of the United Nations Commission for India and Pakistan.

B. The members of the Indian delegation were : Lieutenant General S.M. Shrinagesh, Major General K. S. Thimayya, Brigadier S. H. F. J. Manekshaw. As observers : Mr. H.M. Patel, Mr. V. Sahay.

C. The members of the Pakistan delegation were : Major General W.J. Cawthorn, Major General Nazir Ahmad, Brigadier M. Sher Khan. As observers : Mr. M. Ayub, Mr. A.A. Khan.

D. The members of the Truce Sub-committee of the United Nations Commission for India and Pakistan were : Mr. Hernando Samper (Colombia) Chairman ; Mr. William L.S. Williams (United States) ; Lieutenant General Maurice Delvoie, Military Adviser ; Mr. Miguel A. Marin, Legal Adviser.

II. AGREEMENT

A. *Considering* :

1. That the United Nations Commission for India and Pakistan, in its letter dated 2 July 1949 (annex. 25), invited the Governments of India and Pakistan to send fully authorized military representatives to meet jointly in Karachi under the auspices of the Commission's Truce Sub-committee to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of India and Pakistan ;

2. That the United Nations Commission for India and Pakistan in its letter stated that "The meetings will be for military purposes ; political issues will not be considered", and that "They will be conducted without prejudice to negotiations concerning the truce agreement" ;

3. That in the same letter the United Nations Commission for India and Pakistan further stated that : "The cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of part I of the resolution of 13 August 1948, and can be considered separately from the questions relating to part II of the same resolution" ;

4. That the Governments of India and Pakistan, in their letters dated 7 July 1949 to the Chairman of the Commission, accepted the Commission's invitation to the military conference in Karachi ;

B. *The delegations of India and Pakistan, duly authorized, have reached the following agreement :*

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Cease-fire Line Agreement

1. Under the provisions of part I of the resolution of 13 August 1948, and as a complement of the suspension of hostilities in the State of Jammu and Kashmir on 1 January 1949, a cease-fire line is established.

2. The cease-fire line runs from *Manawar* in the south, north to *Keran* and from *Keran* east to the glacier area, as follows :

(*a*) The line from *Manawar* to the south bank of thh *Jhelum* River at *Urusa* (inclusive to India) is the line now defined by the factual positions about which there is agreement bewteen both parties. Where there has hitherto not been agreement, the line shall be as follows :

(i) In *Patrana* area : *Kohel* (inclusive to Pakistan) north along the *Khuwala Kas* Nullah up to Point 2276 (inclusive to India), thence to *Kirni* (inclusive to India).

(ii) *Khambha, Pir Salwan,* Point 3150 and Point 3606 are inclusive to India, thence the line runs to the factual position at *Bagla Gala,* thence to the factual position at the Point 3300.

(iii) In the area south of *Uri* the positions of *Pir Kanthi* and *Ledi Gali* are inclusive to Pakistan.

(*b*) From the north bank of the *Jhelum* River the line runs from a point opposite the village of *Urusa* (NL 972109), thence north following the *Ballaseth Da Nar* Nullah (inclusive to Pakistan), up to NL 973140. thence northeast to *Chhota Qazinag* (Point 10657, inclusive to India), thence to NM 010180, thence to NM 037210, thence to Point 11825 (NM 025354, inclusive to Pakistan), thence to*Tutmari Gali* (to be shared by both sides, posts to be established 500 yards, on either side of the *Gali*), thence to the nortwest through the first "R" of *Burji Nar* to North of *Gadori,* thence straight west to just north of Point 9870, thence along the black line north of *Bijidhar* to north of *Batarasi,* then to just south of *Sudpura,* thence due north to the *Aathaqazinag* Nullah, thence along the Nullah to its junction with the *Grangnar* Nullah, thence along the latter Nullah to *Kajnwala Pathra* (inclusive to India), thence across *Danna* ridge (following the factual positions) to *Richmar Gali* (inclusive to India), thence north to *Thanda Katha* Nullah, thence north to the *Kishanganga* River. The line then follows the *Kishanganga* River up to a point situated between *Jargi* and *Tarban,* (all inclusive to Pakistan) to *Bankoran,* thence northeast to *Khori,* thence to the hill feature 8930 (in Square 9053), thence straight north to Point 10164 (in Square 9057), thence to Point 10323 (in Square 9161), thence northeast straight to *Guthur,* thence to *Bhupathra,* thence to NL 980707, thence following the *Bugina* Nullah to the junction with the *Kishanganga* River at Point 4739. Thereafter the line follows the *Kishanganga* River to *Keran* and onwards to Point 4996 (NL 975818).

(*c*) From Point 4996 the line follows (all inclusive to Pakistan) the *Jamgar* Nullah eastward to Point 12124, to *Kalware,* to Point 6678, then to the northeast to *Sarian* (Point 11279), to Point 11837, to Point 13090, to Point 12641, thence east again to Point 11142, thence to *Dhakki,* thence to Point 11415, thence to Point 10301, thence to Point 7507 ,thence to Point 10685, thence to Point 8388, thence south-east to Point 11812. Thence the line runs (all inclusive to India) to Point 13220, thence across the River to the east to Point 13449 (*Durmat*), thence to Point 14586 (*Anzbari*), thence to Point 13554, thence to Milestone 45 on the

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Burzil Nullah, thence to the east to *Ziankal* (Point 12909), thence to the southeast to Point 11114, thence to point 12216, thence to Point 12867, thence to the east to Point 11264, thence to *Karo* (Point 14985), thence to Point 14014, thence to Point 12089, thence following the track to Point 12879. From there the line runs to Point 13647 (*Karobal Gali*, to be shared by both sides). The cease-fire line runs thence through *Retagah Chhish* (Point 15316), thence through Point 15889, thence through Point 17392, thence through Point 16458, thence to *Marpo La* (to be shared by both sides), thence through Point 17561, thence through Point 17352, thence through Point 18400, thence through Point 16760, thence to (inclusive to India), *Dalunang*.

(*d*) From *Dalunang* eastwards the cease-fire line will follow the general line Point 15495, *Ishmam*, *Manus*, *Gangam*, *Gunderman*, Point 13620, *Junkar* (Point 17628), *Marmak*, *Natsara*, *Shangruti* (Point 17531), *Chorbat La* (Point 16700), *Chalunka* (on the *Shyok* River) *Khor* thence north to the glaciers. This portion of the cease-fire line shall be demarcated in detail on the basis of the factual position as of 27 July 1949 by the local commanders, assisted by United Nations Military Observers.

C. The cease-fire line described above shall be drawn on a one-inch map (where available) and then be verified mutually on the ground by local commanders on each side with the assistance of the United Nations Military Observers, so as to eliminate any no-man's-land. In the event that the local commanders are unable to reach agreement, the matter shall be referred to the Commission's Military Adviser, whose decision shall be final. After this verification, the Military Adviser will issue to each High Command a map on which will be marked the definitive cease-fire line.

D. No troops shall be stationed or operate in the area of the *Burzil* Nullah from south of *Minimarg* to the cease-fire line. This area is bounded on the west by the ridge leading northeast from *Dudgaikal* to Point 13071, to Point 9447, to Point 13466, to Point 13463, and on the east by the ridge running from Point 12470, to Point 11608 to Point 13004, to Point 13976. to Point 13450. Pakistan may, however, post troops on the western of the above ridges to cover the approaches to *Kamri Bal* Pass.

E. In any dispositions that may be adopted in consequence of the present agreement troops will remain at least 500 yards from the cease-fire line except where the *Kishanganga* River constitutes the line. Points which have been shown as inclusive to ane party may be occupied by that party, but the troops of the other party shall remain at a distance of 500 yards.

F. Both sides shall be free to adjust their defensive positions behind the cease-fire line as determined in paragraphs A through E, inclusive, subject to no wire or mines being used when new bunkers and defences are constructed. There shall be no increase of forces or strengthening of defences in areas where no major adjustments are involved by the determination of the cease-fire line.

G. The action permitted by paragraph F above shall not be accompanied or accomplished by the introduction of additional military potential by either side into the State of Jammu and Kashmir.

H. Except as modified by paragraphs A to G, inclusive, above, the military agreements between the two High Commands relating to the cease-fire line on 1 January 1949 shall continue to remain operative.

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I. The United Nations Commission for India and Pakistan will station Observers where it deems necessary.

J. The delegation shall refer this agreement to their respective Governments for ratification. The documents of ratification shall be deposited with the United Nations Commission for India and Pakistan not later than 31 July 1949.

K. A period of thirty days from the date of ratification shall be allowed to each side to vacate the areas at present occupied by them beyond the cease-fire line as now determined. Before the expiration of this thirty-day period there shall be no forward movement into areas to be taken over by either side pursuant to this agreement, except by mutual agreement between local commanders.

In faith whereof the undersigned sign this document in three original copies.

Done in Karachi on 27 July 1949.

For the Government of India :

(*Signed*) S. M. Shrinagesh

For the Government of Pakistan :

(*Signed*) J. Cawthorn *Major General*

For the United Nations Commission for India and Pakistan :

(*Signed*) Hernando Samper, M. Delvoie

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UNCIP Memorandum on Arbitration

Memorandum approved by the Commission at its 6th meeting on 26 August 1949 (*S/AC.12/251*)

26 August 1949

1. The United Nations Commission for India and Pakistan has given long and intensive study to the replies of the Government of India and Pakistan of 18 and 30 May 1949, respectively, to the Commission's Truce Terms of 28 April, as well as to the letter of the Government of India of 17 June and the results of the consultations between representatives of the Commission and the Government of Pakistan in Karachi, 25 to 28 June 1949. As the two Governments are aware, the Commission has recognised that neither Government has found it possible to give to the Truce Terms the unreserved acceptance requested by the Commission.

2. The Commission subsequently decided to seek to bring about agreement on a cease-fire line through meeting of the military representatives of the two Governments. The Commission is highly gratified that these meetings, held in Karachi from 18 to 28 July 1949, resulted in the definition of an agreed cease-fire thus completing the implementation of part I of the resolution of 18 August 1948.

3. Hopeful that the success of the meetings of the military representatives held in Karachi presaged a new and more suitable opportunity

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for both Governments to agree on the problem relating to the implementation of part II of the Commission's resolution of 13 August 1948, the Commission invited the Governments of India and Pakistan to send representatives to meet together under the auspices of the Commission. In view of the letters of reply from both the Governments wherein they reaffirmed their opposed position with respect to the provisional agenda the Commission felt constrained to withdraw its invitation, for the reasons expressed in its letter of 19 August 1949.

4. The implementation of part II of the Commission's resolution of 13 August 1948 remains unaccomplished. The Commission strongly feels that early and definitive action in this regard is desirable, and has no doubt that both Governments share this view. The Commission remains convinced of the sincere desire of both Governments to solve the Kashmir problem by peaceful means and of their firm intention to fulfil the commitments they have entered into in this regard.

5. The Commission has therefore, in the light of existing circumstances decided to ask both Governments whether they will agree to the course of action outlined below for the conclusion of the truce :

(i) The two Governments agree :

(*a*) That they will submit to arbitration the differences existing between them concerning all questions raised by them regarding the implementation of part II of the resolution of 13 August 1948, the Arbitrator to decide these questions according to equity, and his decisions to be binding on both parties :

(*b*) That the arbitration will terminate once the truce terme are decided upon :

(*c*) That United States Fleet Admiral Chester W. Nimitz will be the Arbitrator :

(*d*) That the procedure for the arbitration will be worked out subsequently :

(*e*) That since the procedure of arbitration will be limited to the conclusion of a truce the Commission will continue in the exercise of its functions. Upon an arbitral decision the Commission will undertake the tasks assigned to it under the truce and under the resolution of 5 January 1949.

(ii) With reference to paragraph (i) *d*, above, the Commission considers that it would be inappropriate, in advance of approval by the parties of the proposed course of action and of the personnel of the arbitrator, to seek to define the exact procedure to be followed.

6. The Commission recommends this course of action as an effective means of overcoming the obstacles which have so far stood in the way of implementation of the truce agreement. If it is accepted by the two Governments the Commission is confident that the implementation of the truce agreement will be speedily begun and that the Commission and the two Governments be placed in a position to pursue their respective tasks leading to the final settlement of the problem, the continued existence of which is source of grave concern not only to both Governments but also to the other Member States of the United Nations.

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7. The Commission requests after your Government has given the matter its careful and deliberate consideration, it may be favoured with a written reply.

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Clarification of Arbitration Proposal

Letter dated 10 September 1949 from the Chairman of the Commission addressed to the Secretary-General, Ministry of External Affairs, Government of India, regarding the Commission's Memorandum on arbitration.

12 September 1949

"I have the honour to acknowledge the receipt of your letter dated 8 September 1949 (annex. 36), in which Your Excellency communicated to the Commission the views of your Government on the suggestion for arbitration as contained in the Commission's memorandum delivered on 30 August 1949 (annex. 35).

2. The Commission is concerned to note that the nature of your Government's reply appears to have been determined by considerations arising out of two questions about which there seems to be some misunderstanding, namely :

(i) Whether Commission would state to the arbitrator the points submitted to arbitration ;

(ii) Whether the Commission would furnish to the arbitrator a clear account of the circumstances leading up to the present position and the Commission's own conclusions on points like the disbanding and disarming of the "*Azad* Kashmir" forces on which it had already reached a conclusion."

3. Since the Commission finds that your Government's interpretation, as stated in the observations set forth in Your Excellency's letter does not exactly reflect the intention of the Commission it is reluctant to consider that reply as a final one and therefore begs to convey the following comments which, the Commission trusts, will provide a more accurate understanding of its views.

4. As regards the first question, Your Excellency will note that sub-paragraphs (i) (*d*) and (ii) of paragraph 5 refer to procedure and indicate that this is a matter which should be decided upon subsequently. The Commission is of the opinion that it would be preferable first to have the Government's acceptance of the course of action as presented, and then to consult with them regarding the several methods which might be agreed upon for the further procedure. The procedure inherent in Your Excellency's question is one of these and is, consequently, not precluded.

5. As regards the second question, the Commission wishes to assure Your Excellency that it will of course be at the disposal of the arbitrator and present him with a full account of the facts which are within its knowledge.

6. In suggesting arbitration as a means of reaching prompt and effective implementation of the truce, the Commission has never intended

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that the commitments entered into for a peaceful solution of the dispute should be disregarded : The objective of a free and impartial plebiscite and the principles relating to the conditions which must be created in order that it be truly free and impartial, remain unquestioned.

7. In this connexion Your Excellency has referred to the disarming of the "*Azad* Kashmir" forces. The Commission wishes to point out that both Governments have agreed to a large-scale disbanding and disarming of these forces as one of the conditions precedent to the holding of the plebiscite. The difference which has arisen between the two Governments with respect to decision on this matter has not been one of substance but of scope, method and timing. Arbitration would apply to this aspect only.

8. The Commission does not consider it necessary at this time to comment further on your letter."

(*Signed*) R. B. Macatee
Chairman

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India's Reasons for Rejection

Letter dated 15 September 1949 from the Secretary-General, Ministry of External Affairs, Government of India, addressed to the Chairman of the Commission, regarding arbitration (S/AC. 12/265)

16 September 1949

"I have the honour to reply to your Excellency's letter, dated the 10th September 1949 which you were good enough to leave with me on the 12th instant.

2. The Government of India note that in the view of the Commission, my letter No. 581-PASG/49, dated the 8th September "does not exactly reflect the intention of the Commission" presumably in respect of points (i) and (ii) which are stated in paragraph 2 of your letter, dated the 10th September. The Government of India regret that there should have been this misunderstanding. They wish to assure the Commission that they endeavoured to interpret its memorandum which Mr. Chyle delivered on the 30th August, 1949, to the best of their ability, with due regard to the language of the memorandum and my understanding of certain elucidations which I sought from Mr. Chyle and Ambassador Colban.

3. The Government of India have given the fullest consideration to the Commission's memorandum in the light of Your Excellency's letter. I wish to point out, in the first place, that our original reply to the proposals contained in the Commission's memorandum of 30th August 1949, was based not on any minor considerations but on the fundamental condition that the creation of public confidence and of a peaceful atmosphere is a necessary preliminary to preparation for a plebiscite. This is a condition which both my Government and the Commission have accepted and it cannot, therefore, be left to the decision of an arbitrator.

I shall deal with paragraph 7 of your Excellency's letter. As explained in my letter of the 8th September one of the most important issues, namely

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that of the large-scale disbanding and disarming of the "*Azad* Kashmir" forces is one which can not be settled by arbitration. To quote from paragraph 6 of that letter :—

'For the purpose of ensuring the security of the State, the Government of India have, in all their discussions with the Commission about the truce, insisted upon the inter-dependence of the phasing of the withdrawal of their forces from the State under B. I of part II of the resolution of the 13th August and the adoption of measures to implement the Commission's intention that there should be large-scale disbanding of these (the *Azad*) forces." Such disbanding and disarming is also essential to the holding of a free and impartial plebiscite for reasons which are explained to Mr. Lozano by the Prime Minister in the course of their conversations held on the 20th and 22nd December 1948. Mr. Lozano recognized the force of the Prime Minister's argument on this point and disclosed to us that the intention of the Commission was that there should be a large-scale disbanding and disarming of the *Azad* Kashmir" forces,

Paragraph 7 of Your Excellency's letter of the 10th September states that : "The Commission wishes to point out that both Governments have agreed to a large-scale disbanding and disarming of these forces as one of the conditions precedent to the holding of the plebiscite. The difference which has arisen between the two Governments with respect to decision on this matter has not been one of substance but of scope, method and timing. Arbitration would apply to this aspect only.' In answer to this, I wish to repeat the view expressed by the Government of India in paragraph 6 of my letter of the 8th September viz., that "If while accepting the need for such disbanding and disarming, the arbitrator is free to postpone consideration of the matter until after the bulk of Indian forces in the State of Jammu and Kashmir had been withdrawn, the security of the State will be in great jeopardy during the period that intervenes between the withdrawal of the bulk of the Indian forces and the adoption of measures for the large-scale disbanding and disarming of the "Azad Kashmir" forces. As has been frequently explained to the Commission, the Government of India cannot possibly take this risk, which would be incompatible with their paramount responsibility to protect the portion of the State under their control against a repetition of the horrors of the invasion of the State in October 1947", especially when, according to their information, the number of these forces has grown considerably. The Government of India, therefore, maintain that the large-scale disbanding and disarming of the "Azad Kashmir" forces on which, apart from other considerations, depends the phasing of the withdrawal of Indian forces under B. 1 of part II of the resolution of the 13th August 1948, is no more a matter for arbitration than the complete withdrawal of the Pakistan forces. Any lack of certainty on this issue would open the door to the aggressor to benefit by his aggression.

4. Paragraph 4 of Your Excellency's letter refers to sub-paragraphs (i) (d) and (ii) of paragraph 5 of the Commission's memorandum, and Your Excellency was good enough to explain that the question as to what the points for arbitration should be would be dealt with the two Governments. Explaining the Commission's intentions in this regard further. Your Excellency said that if as a result of these consultations, the two Governments could not reach agreement on the points to be referred for arbitration, arbitration would be regarded as having failed. In the

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Government of India's view, the process of consultation with the two Governments to determine the points of reference to arbitration should precede and not follow acceptance of the proposal for arbitration. Since whether or no arbitration takes place will depend upon agreement between the two Governments upon the points to be referred to arbitration, this would be the more logical and appropriate course. It is also in conformity with the accepted procedure in respect of arbitration.

5. The Government of India do not feel called upon at this stage to comment upon the choice of an arbitrator. The stage for that will be after the points for arbitration have been precisely defined and accepted by the Governments of India and Pakistan".

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Section VIII

The McNaughton Plan

On December 17, 1949 the Security Council of the U. N. approved the suggestion of the representative of Norway that "the President should meet informally with the two parties and examine with them the possibility of finding a mutually satisfactory basis for dealing with the Kashmir problem." The President of the Council, General A. G. L. McNaughton, (Canada) thereupon transmitted his proposals to the representatives of India and Pakistan on December 22, and reported to the Council on December 29. Although his term as President expired on December 31, he was requested by the Council to continue his mediation efforts, and he submitted his final report (S/1453) on February 3, 1950.

General McNaughton formulated his proposals of December 22 1949 to "provide a basis for an agreed programme of demilitarization" since, in his opinion, the 'area of disagreement was essentially concerned with various stages of demilitarization prior to the holding of a plebiscite in the State, which question had to be treated as "a unified whole."

General McNaughton in his report to the Council on February 3, stated that in drafting his proposals of December 22 1949 he had 'briefly two main elements in mind" In the first place "I felt that it would be most unwise to discard whatever measure of agreement had thus far been achieved between two parties, unless some alternative agreement had been first reached between them. In the second place I sought to concentrate on the development of appropriate arrangements for the future rather than to attempt an analysis, or to pronounce judgement, on the highly controversial and disputed issues of the past few years".

The McNaughton proposals brought in the Militia, the Azad forces, and Northern Area in the programme of demilitarization envisaged by the UNCIP resolutions of August 13, 1948 and January 5, 1949 and laid down that the administration of Northern area "should, subject to the United Nations supervision, be carried on by existing local authorities. In addition Pakistan was to assure India of and satisfy the U.N. Military Observer about "adequacy of its arrangements to prevent tribal incursions. Both India and Pakistan were to confirm further the inviolability of the cease-fire line. Other proposals were more or less in line with the UNCIP resolutions. A radical change, however was proposed investing the U.N. Representative with authority to "make any suggestion to the Governments of India and of Pakistan which, in his opinion, are likely to contribute to the expeditious and enduring solution of the Kashmir question, and to place his good offices at their disposal."

Both India and Pakistan proposed amendments which were declared mutually unacceptable. Pakistan sought to restrict the scope of U.N.

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Representative's suggestions mentioned in para 6, to the terms of the two UNCIP resolutions while India strongly supported the wording of the proposal. Other amendments, apart from drafting changes suggested by Pakistan, were : 1. The functions of the Plebiscite Administrator should include the final disposal of all forces in the State after demilitarization ; 2. The U.N. Representative should obtain assurance from authorities on both sides of the cease-fire line about safeguarding peace, law and order and guaranteeing all human and political rights ; and 3. The assurance sought from Pakistan against tribal incursions should be given to the U.N. and not to India.

India on the other hand sought the Pakistan assurance to include an assurance against incursions by tribesmen, and Pakistan nationals and opposed assurance from authorities on both sides of the cease-fire line as that would give "Azad Kashmir" the same status as the lawful government of the Jammu and Kashmir. In regard to the Plebiscite Administrator ensuring final disposal of the remaining forces after demilitarization, India held that this envisaged demilitarization in two stages while the "basis of General McNaughton's proposal is demilitarization with the agreement of the two Governments in one comprehensive instalment."

India on her side proposed the programme of demilitarization to include "the irregular forces of Pakistan", the disbanding and disarming of the 'Azad Kashmir' forces" and to exclude the disbanding and disarming of the Armed forces and Militia of the State of Jammu and Kashmir. It also sought the State Government's administration for the Northern Area and responsibility for its Defence to vest in the Government of India."

The Pakistan amendments were proposed by Sir Zafrullah Khan in his letter dated December 28, and India's by Sir B.N. Rao in his letter dated December 29, 1949. The proposal about restricting the scope of U.N. Representative's suggestion vide Para 6 was made by Pakistan at the instance of the Prime Minister on December 31, 1949. On January 4, 1950, Arnold Smith, Principal Adviser to General McNaughton, transmitted to Sir Zafrullah Khan the comments of India on Pakistan proposals. On January 13, 1950, Sir Zafrullah Khan wrote to General McNaughton that India's amendments amounted to a clear rejection of the proposals and sought to substitute in their place a scheme wholly incompatible with them". The Pakistan delegation felt that "no useful purpose would be served by their attempting an analysis of the Indian proposals and entering upon a refutation thereof.'

In his report to the Security Council on February 3, 1950, General McNaughton said that "in the absence of clear evidence that further mediation by me would seem likely to assist the Governments of India and Pakistan toward an agreed course of action, I do not believe that further activity on my part would serve any useful purpose." He said in his view further procedure to settle the problem should be determined by the Security Council after hearing the two parties.

He added, "I would like to add that my conversations with the representatives of India and of Pakistan, and my association with this problem during the two years when I sat on the Security Council, have impressed me deeply with the paramount necessity of resolving this controversy. So long as the dispute over Kashmir continues, it is a serious drain

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on the military, economic, and above all, on the spiritual strength of these two great countries. It is obvious that the real long-term interest of both of India and Pakistan lies in mutual friendship and co-operation, and that the prosperity and security of each will be increased directly with the prosperity and security of the other. Generosity and sympathetic understanding are always the two keys to good-neighbourliness between nations, and thus to the great future which these two neighbours will surely have".

In conclusion he thanked all concerned for courtesy and co-operation extended to him and expressed his "best wishes for success in efforts now being made to find an early and enduring settlement of this important question."

The McNaughton Proposal

Proposal in respect of Jammu and Kashmir made by General A. G. L. McNaughton, President of the Security Council of the United Nations, pursuant to the decision of the Security Council taken at its 457th meeting on 17 December 1949 :

1. The principal considerations underlying the following proposals of the President of the Security Council of the United Nations are :

(a) To determine the future of Jammu and Kashmir by the democratic method of the free and impartial plebiscite to take place as early as possible ;

(b) Thus to settle this issue between the Governments of India and Pakistan in accordance with the freely expressed will of the inhabitants as is desired by both Governments ;

(c) To preserve the substantial measure of agreement on fundamental principles which has already been reached between the two Governments under the auspices of the United Nations ;

(d) To avoid unprofitable discussion of disputed issues of the past, and to look forward into the future towards the good-neighbourly and constructive co-operation of the two great nations.

Demilitarization Preparatory To The Plebiscite

2. There should be an agreed programme of progressive demilitarization, the basic principle of which should be the reduction of armed forces on either side of the Cease-Fire line by withdrawal, disbandment and disarmament in such stages as not to cause fear at any point of time to the people on either side of the cease-fire line. The aim should be to reduce the armed personnel in the State of Jammu and Kashmir on each side of the cease-fire line to the minimum compatible with the maintenance of security and of local law and order, and to a level sufficiently low and with the forces so disposed that they will not constitute a restriction on the free expression of opinion for the purpose of the plebiscite.

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(a) The programme of demilitarization should include the withdrawal from the State of Jammu and Kashmir of the regular forces of Pakistan, and the withdrawal of the forces of India not required for purposes of security or for the maintenance of local law and order on the Indian side of the Cease-Fire line ; also the reduction by disbanding and disarming of local forces, including on the one side the Armed Forces and Militia of the State of Kashmir and on the other, the Azad Forces.

(b) The "Northern Area" should also be included in the above programme of demilitarization, and its administration should, subject to United Nations supervision, be continued by the existing local authorities.

Suggested Basis of Agreement

3. The Government of India and Pakistan should reach agreement not later than 31 January 1950 in New York on the following points !

(a) The Government of Pakistan give unconditional assurance to the Government of India that they will deal effectively within their own borders with any possibility of tribal incursion into Jammu and Kashmir to the end that, under no circumstances, will tribesmen be able unlawfully to enter the State of Jammu and Kashmir from or through the territory of Pakistan. The Government of Pakistan should undertake to keep the senior United Nations Military Observer informed and to satisfy him that the arrangements to this end are, and continue to be, adequate.

(b) The Government of India and Pakistan should confirm the continued and unconditional inviobility of the "Cease-Fire Line."

(c) Agreement should be reached on the basic principles of demilitarization outlined in paragraph 2 above.

(d) Agreement should be reached on the minimum forces required for the maintenance of security and of local law and order, and on their general disposition.

(e) Agreement should be reached on a date by which reduction of forces, to the level envisaged in paragraph 2 above, is to be accomplished.

(f) Agreement should be reached on the progressive steps to be taken in reducing and redistributing the forces to the level envisaged in paragraph 2 above.

4. In respect to the foregoing matters, the Government of India and of Pakistan should further agree that a United Nations representative, to be appointed by the Secretary-General of the United Nations in agreement with the two Governments, should supervise the execution of the progressive steps in reduction and redistribution of armed forces and that it should be the responsibility of the United Nations representative to give assurance to the people of both sides of the Cease-Fire line that they have no cause for fear at any stage throughout the process. The United Nations representative should have the duty and authority :—

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(*a*) of interpreting the agreements reached between the parties pursuant to paragraph 3, sub-paragraphs (*c*), (*d*), (*e*) and (*f*) above, and

(*b*) of determining, in consultation with the Governments of India and Pakistan respectively, the implementation of the plan for the reduction and redistribution of armed forces referred to in paragraph 3 (*f*) above.

5. When the agreed programme of demilitarization preparatory to the plebiscite has been accomplished to the satisfaction of the United Nations representative, the Plebiscite Administrator should proceed forthwith to exercise the functions assigned to him under the terms of the resolution of the UNCIP of 5 January 1949 which, together with the Commission's resolution of 13 August 1948, was accepted by Governments of India and Pakistan and which are now reaffirmed by these Governments except insofaras the provisions therein contained are modified by the relevant provisions of this document. The functions and powers of the Plebiscite Administrator remain as set forth in the Commission's resolution of 5 January 1949.

6. The United Nations representative should be authorised to make any suggestions to the Governments of India and Pakistan which in his opinion are likely to contribute to the expeditious and enduring solution of the Kashmir question ; and to place his good offices at their disposal.

Prepared in identic copies to be delivered to Sir Girja S. Bajpai for the Government of India and to Sir Zafrullah Khan for the Government of Pakistan, respectively.

New York City,
23—00 hours
22 December 1949

A. G. L. McNaughton
President of the Security Council

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Section IX

Dixon's Partition Plan

By a resolution sponsored by the representatives of Cuba, Norway the United Kingdom and the United States of America, and adopted at its meeting held on March 14, 1950, the Security Council decided to appoint a United Nations Representative to take over the functions of the UNCIP, which would be terminated one month after both the parties have informed the United Nations Representative of their acceptance" of the transfer to him of the functions of the UNCIP, and called upon India and Pakistan to "make immediate arrangements without prejudice to "their rights or claims and with due regard to the raquirements of law and order," to prepare and execute "within a period of five months "a programme of demilitarization on the basis of paragraph 2 of General McNaughton's proposals or on mutually agreed modifications thereof."

The U. N. Representative was asked to assist in "the preparation and supervision" of demilitarization programme and also to arrange at the appropriate stage of demilitarization for the assumption by the plebiscite Administrator of the functions assigned under agreement between the parties". He was further "to place himself at the disposal of the Governments of India and Pakistan and to place before these Governments or the Security Council any suggestions which, in his opinion, are likely to contribute to the expeditious and enduring solution of the dispute which has arisen between the two Governments in regard to the State of Jammu and Kashmir" thus authorising him to explore ways and means other than overall plebiscite for settlement of the problem.

On April 12, 1950, the Security Council appointed Sir Owen Dixon, an eminent Australian jurist, as the U. N. Representative. Pakistan and India notified on May 15, and June 1, respectively of their acceptance of transfer to him of the functions of the UNCIP which consequently ceased to exist on May 31, 1950.

"By that time over ten weeks of the five months mentioned in the Security Council's resolution had elapsed but, so far as I am aware, no steps in pursuance of the paragraph (regarding demilitarization) had been taken by the two Governments", Sir Owen later told the Security Council in his report submitted on September 15, 1950.

After discussions with the Prime Minister of India about the nature of 'India's contentions and her stand-point generally concerning the Kashmir dispute" he went to Karachi on June 1, and there he obtained similar kind of information about Pakistan's position from Sir Zafrullah Khan and other officers of the Pakistan Government.

From June 7, to July 12 Sir Owen toured the State of Jammu and Kashmir "to obtain a knowledge of the country, the people, the topographical features, the cease-fire line, the general disposition of the armed

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forces on either side of the cease-fire line and the other conditions and circumstances existing in the State which would or might assist me in understanding the dispute and the possible means of resolving it". He also had more than one interview with Sheikh Abdullah.

After the completion of his "journeys, inspection and enquiries the U. N. Representative busied himself in the consideration and preparation of plans." "I had formed the opinion that my best course was to deal with the Prime Ministers and, if possible, bring them together at a meeting with me at which a sustained effort might be made to effect a settlement", he observes.

His report further records : "The situation as I found it presented strange features. The parties had agreed that the fate of the State as a whole should be settled by a general plebiscite but over a considerable period of time had failed to agree on any of the preliminary measures which it was clearly necessary to take before it was possible to set up an organisation to take a plebiscite. On the Indian side of the cease-fire line the forces occupying the territory consisted of troops of the regular Indian Army, State troops and the State Militia. On the Pakistan side the forces were composed of troops of the Pakistan regular Army, Azad Kashmir forces and Northern Scouts. The cease-fire line itself was held in strength and thus two considerable armies stood opposed to one another.

"The Government on the Pakistan side of the cease-fire line seemed to be administered through an 'Azad Kashmir Government' on the West but in the North through political agents directly responsible to the Pakistan Government.

"On the Indian side of the cease-fire line the administration of the Government of the State was in the hands of Sheikh Abdullah and his colleagues subject, however, to the federal powers of India over such matters as defence and external affairs, obtained under the Instrument of Accession to India (See Section 370 of the Constitution of India). These powers, however, were extensive enough for the purpose of any matter which could arise in relation to the Kashmir dispute or its settlement.

"It was obvious to me that in my attempt to settle the dispute, I must be governed by the course that had been taken by the Security Council and the United Nations Commission for India and Pakistan and agreed upon by the parties. It might be true that the chances of such a course proving successful were much reduced by the failure of the parties over so long a period of time, notwithstanding the assistance of the Commission, to agree upon any practical measures in pursuance of that course for the solution of the problem. What was wanting was agreement upon the matters including demilitarization, which were preliminary to even the commencement of the necessary arrangements for the taking of a poll of the inhabitants.

"Primarily my duty, as I conceived it, was to attempt to bring about an agreement upon measures by the execution of which it would be made possible for the Plebiscite Administrator to begin his work of organizing an overall plebiscite. Only if and when I was satisfied that

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no such agreement could be brought about and that all real chance of it was at end, ought I to turn to some form of settlement other than a plebiscite of the whole State. At the earliest stage possible I informed each of the parties that this was the position I adopted."

In examining the history of past attempts at settlement of the dispute and India's position and stand in relation thereto, Sir Owen formed the opinion that if he were to succeed in bringing about agreement upon matters preliminary to an over-all plebiscite it would be necessary to meet certain objections India would raise. "There was first the allegation, so often repeated by India, that Pakistan was an aggressor who had no *locus standi* and whose troops had no title to be in the State... that during the period of preparation for and taking of the plebiscite the territory to the West of the cease-fire line should not be under the immediate governmental authority or direction of Pakistan or be administered by the Azad Kashmir Government. There must be no impairment of, or prejudice to, the recognition of the sovereignty of the State of Jammu and over the Northern areas——that if there was a very great reduction of troops on the Indian side of the cease-fire line there would be danger of further incursions from the other side of the line."

In preparing his plans for the Prime Ministers' meeting Sir Owen endeavoured to meet these various positions. "But I was very much alive". he records, "both to the necessity and difficulty of securing the freedom and fairness of the plebiscite. The plans I had in mind for the Pakistan side of the cease-fire line would, I thought, remove any difficulty there. But I felt much concern about the Indian side of the cease-fire line. If bodies of troops belonging to one side remained in populous areas, if all the powers of Sheikh Abdullah's administration which had the deepest possible interest in the result of the poll, remained exercisable, if the State Militia went about under arms and the State police were left to exert whatever influence arise from their position in such a community, it appeared to me that there were the gravest danger to a free expression of the will of the inhabitants and almost a certainty that if the result was adverse to Pakistan she would challenge the plebiscite as neither free nor fair."

The Prime Minister of India and Pakistan agreed to the U. N. Representative's suggestion to meet in New Delhi on July 20, 1950. The meeting began at 4 o' clock in the afternoon and continued from day to day until July 24, when by common consent it was brought to an end.

Sir Owen found that neither Nehru (India) nor Liaquat Ali Khan (Pakistan) had "any affirmative plans or proposals to make and he, therefore, proceeded to describe the course which I would propose to them."

The first matter raised by him was the necessity of ensuring confidence of each party in the other fulfilling undertakings given by it particularly in regard to the withdrawal of troops and the reduction of military strength in the event of agreement. This could be secured by avoiding indefinite undertakings and by stipulating that no cause for refusal or failure to do what the party undertook to do should suffice unless an appropriate authority of the U. N. so certified." To this there appeared to be no specific objection.

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At an early stage of the Conference, Nehru advanced India's oft-repeated contention that not only Pakistan was an aggressor but should be so declared and referred to it repeatedly during the Conference.

Sir Owen observes in his report : "I took up the positions : first that the Security Council had not made such declaration ; Secondly that I had neither been commissioned to make, nor had I made any judicial investigation of the issue ; but thirdly that without going into the causes or reasons why it happened which presumably formed part of the history of the sub-continent, I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed on, I believe, 20 October 1947, by hostile elements, it was contrary to international law, and that when, in may 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State that too was inconsistent with international law. I, therefore, proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan Regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of cease-fire-line should take place and as far as practicable, concurrently. What number of days should be fixed as significant was a matter of detail for them to settle."

The Pakistan Prime Minister, Liaquat Ali Khan, expressed strong dissent from the last position taken by Sir Owen but "expressed his readiness' to accept in compliance with his request the proposition that "as a first step in demilitarization the withdrawal of the regular forces of the Pakistan Army should begin."

The rest of Sir Owen's proposals for demilitarization were for "India to begin the removal of the armed forces in the area East and South of the cease-fire line "after fixing so many days from the commencement of the Pakistan withdrawal. He asked for (1) "the withdrawal of the forces of the Indian Regular Army ; (2) the withdrawal or disarming and disbandment of the Jammu and Kashmir State forces ; and (3) the disbandment of the Jammu and Kashmir State Militia." He made no stipulation as to the sequence of these three operations relatively to one another." On the other side of the cease-fire line his proposal was that "Pakistan would commence to disarm and disband (1) the Azad Kashmir forces and (2) the Northern Scouts, the day and hour for commencing to do so to be fixed by reference to the withdrawal of the Pakistan Regular Army.

The U. N. Representative suggested that the operations proposed should be divided into phases and that plans should be prepared for the carrying out of each phase by the respective Chiefs of Staff and that his military Adviser should consider each plan and be "entitled to recommend alterations." He suggested the Pakistan plans to be settled first and furnished through his Military Adviser to the Indian Chief of Staff for settling their own plan.

As regards the forces needed by either party after demilitarization and pending the plebiscite he suggested that this should be determined according to purpose and their number should be "as small as possible since the presence of armed forces" tended against the independence of voting and the fairness of the poll.

The purpose for which troops could be needed on the Pakistan side, according to him, would be (1) to ensure against incursions from her

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side into the Kashmir valley, (II) to disarm and disband the Azad Kashmir forces, "a temporary purpose involving perhaps chiefly the ordnance corps" and (III) to quieten the fears which might possibly arise among Muslims "left entirely without any ostensible protection and perhaps to aid the civil power in keeping order.

On the Indian side the purpose of troops would be (I) to be available in aid of the civil power in maintaining order where the population was mixed in the South or South-West of the State, and (II) to guard the Northern approaches to the valley against possible incursions through or by way of the Jhelum valley, Keran and Tithwal and thence by Handwara, the Tragbal Pass, from Gurais to Bandipura and the Zojila Pass and thence to Baltal and Sonamarg.

"The Prime Minister of India rejected this plan on grounds", stated Sir Owen, "of which it is impossible in this report to give an exhaustive statement." The points made by him, however were : (I) taking into account of possible aggression from Pakistan side as one of the purposes for which Indian troops were needed ; (2) the need for protecting the State could not be limited to the specific approaches named by Sir Owen, (3) India's inability to ask the State to disarm and disband the Militia which "though under the command of the Indian officers performed duties of police and could not be disarmed and disbanded without prejudicing the organization of the State, and (4) that India could not countenance for a moment the presence in the State of Pakistan and Azad forces as a result of invasion which was "the reason why India was being asked to limit the forces she would use in discharging her responsibilities in the defence of the State as part of India.

Liaquat Ali Khan declared that Pakistan would commit no aggression and that "to retain forces for protection against such possible attack meant that there would be no demilitarization. With regard to Militia Sir Owen said that it was immaterial to him how they were disposed of so long as they did not constitute a body of armed personnel in excess of the forces allowed on the Indian side. He also told Nehru that his only reason to ask for restriction of the armed forces in Kashmir was to ensure the freedom of the poll and it was not because of events to which he referred. Nehru had also said that forces used on the Pakistan side must have a 'civil character' and their purpose must be civil. The Pakistan Prime Minister did not deal with this point. The attempt at demilitarization thus failed. "No alternatives were suggested and no solution of the difficulties was put forward by either party", states Sir Owen.

The UNCIP resolution of January 5, 1949 assumed the continuance of the cease-fire boundary till the completion of the plebiscite. Neither Prime Minister sought to depart from this assumption. But India insisted that no authority other than that of the State should be recognized on the other side of the cease-fire line while UNCIP resolution of August 13, 1948 part II A 3, provided for the administration of the evacuated territory by "the local authorities under the surveillance of the Commission."

To meet India's position, emphatically maintained during the Prime Ministers' meeting and at the same time to ensure the freedom of the poll, Sir Owen formulated two sets of proposals one dealing with the areas West

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and North of the cease-fire line and the other with the Indian side. He provided for the association of a U. N. officer with each District Magistrate on both sides of the cease-fire line with powers of supervision, observation, inspection, remonstrance and report. On the West of the cease-fire line the U. N. officials would ensure that the Government proceeded according to the law and custom of the State as existing before the troubles arose while on the Indian side no warrant or detention order for political reasons would be executed or continued without the consent of the U. N. officials. The officials were to be appointed on a day named by the Plebiscite Administrator. For the Northern areas Sir Owen proposed the appointment by U. N. after consultation with India and Pakistan of Political Agents to administer the territory through existing Administrative channels.

Nehru turned down the proposals one by one. His objections were that the existing District Magistrates on ths Pakistan side, or some of them, were and might be repugnant to India, the officers appointed by Pakistan in the Northern areas could not be countenanced, any consultation with Pakistan recognized her title to be in the Northern Area and that India, in any case, must place garrisons or military posts at certain places in the Northern Area. In regard to Sir Owen's proposal for the Indian side Nehru held that "it involved interference with the integrity of the functions for the State and an impairment of the powers of arrest which might prove dangerous in the case of subversive elements.

No modifications or alternatives to proposals made by Sir Owen were put forward by India although these matters were discussed in detail.

The U. N. representative realizing that a great many difficulties confronting his plans would disappear if the cease-fire line as a political boundary would cease to exist, now turned to the alternative of bringing about "for the plebiscite period a single Government for the whole State". He asked the two Prime Ministers whethre it was possible to put into effect one of the three plans for the purpose which he put forward, namely, (1) a coalition Government for the whole State either by bringing together Sheikh Abdullah and Ghulam Abbas, Head of the Azad Kashmir movement, or placing certain portfolios at the disposal of the respective parties; (2) formation of an Administration for a fixed period, perhaps six months before the poll, comprising "trusted persons outside politics holding high judicial or administrative office and commanding general confidence" with the Chairman appointed by the United Nations and parity for Hindus and Muslims, the existing Ministers while continuing to hold office to be relieved for their responsibilities during the period; and (3) the Administrative body in plan 2 to be composed altogether of the U.N. representatives. None of these suggestions was acceptable to India. He also mentioned one or two other possible ways of reaching a plebiscite.

In his report Sir Owen states : "In the end I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to provisions governing the period of the plebiscite of any such character as would, in my opinion, permit of the plebiscite being conducted in conditions sufficently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled."

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Dixon's Partition Plan

Sir Owen ascertained from the two Prime Ministers that "with such a plebiscite in view there was no longer any hope of agreement upon demilitarization, or upon the conditions which would follow demilitarization, or upon any modified form of demilitarization, or upon any course which would advance the position towards a settlement." He had now two courses left open to him, either to abandon his efforts or explore some alternative method to plebiscite by which the destination of the whole State would be decided."

"I asked the Prime Minister of India, the Prime Minister of Pakistan being present", records Sir Owen, "what was the attitude of India :

(1) to a plan for taking the plebiscite by sections or areas and the allocation of each section or area according to the result of the vote therein or,

(2) To a plan by which it was conceded that some areas were certain to vote for accession to Pakistan and some for accession to India and by which, without taking a vote therein, they should be allotted accordingly and the plebiscite should be confined only to the uncertain area which, I said, appeared to be the valley of Kashmir and perhaps some adjacent country."

The U.N. Representative pointed out that in both cases a provision should be made against a break in the continuity of territory involved and suggested 1941 census, or some wider consideration for working out the second proposal. Further he said that "it would be necessary to agree that if the result was to put the upper waters of the Chenab River into the control of India she would not divert them by artificial works so that Pakistan would receive a sensibly reduced volume of water."

The Pakistan Premier protested against the course proposed as it involved a breach of agreement by India to settle the destiny of Kashmir through a single plebiscite for the whole of the State. Nehru, however, at Sir Owen's request agreed to inform him of India's views. The Prime Ministers' conference was thereupon adjourned by mutual agreement.

"In taking the course I have described", states Sir Owen, "I acted under the resolution of the Security Council dated 14 March 1950 by which I was required to place before the two Governments any suggestion which, in my opinion, was likely to lead to the solution of the dispute. Notwithstanding the attitude of the Prime Minister of Pakistan, I considered that unless it was by a partition of the State either outright, or combined with a partial plebiscite limited to an area which included the valley of Kashmir, no agreed settlement of the Kashmir dispute could be brought about."

After consideration the Indian authorities informed the U. N. Representative that the Prime Minister would be willing to attend a conference with the Pakistan Premier and him to discuss the possibility of settlement on certain principles, coinciding with the basis of Sir Owen's second plan with the qualification that "demarcation should have due regard to geographical features and to the requirements of an international boundary. "India also agreed to include a term therein about not diverting the waters of the Chenab River or substantially reducing its flow except that "she might construct canals for irrigation within the State", or establish

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hydro-electric works. In applying these principles India had reached certain tentative conclusions which are recorded by Sir Owen in his report as follows :

"In the first place there should be a plebiscite in the valley of Kashmir. The area should, however, include part of the Muzaffarabad district to bring in what India regarded as the natural geographical feature provided by the river Kishenganga and its watershsd in the North.

In the second place India considered that the following areas should go to her (1) the province of Jammu so far as it lies East of the cease-fire line subject to minor corrections ; one correction was to reduce the bulge in the cease-fire line near Gulmarg.

"2. In the district of Ladakh, the tehsil of Ladakh and the tehsil of Kargil except approximately the area above the Suru River, which should go to India or Pakistan according to the result of the plebiscite in the valley.

"In the third place India was willing that the following areas should go to Pakistan, viz Gilgit, Gilgit-Agency, Gilgit Wazarat, political districts and tribal territory and Baltistan and so much of the Jammu province as lies to the West of the cease-fire line as corrected.

"India contemplated a Boundary Commission to apply on the ground the division which might be decided upon.

But "the territorial demands", states Sir Owen, "which the foregoing information disclosed appeared to me to go much beyond what according to my conception of the situation was reasonable, and I so stated to the Indian authorities.

The U.N. Representative then went to Karachi and informed the Pakistan Prime Minister of India's views adding an expression of his own opinion that the territorial claims involved "went too far and did not represent the division of the State to which in the end India might be expected to agree."

But Pakistan declined to attend the conference, the primary reason being her unwillingness to depart from the claim that the fate of the State as a whole should be decided by an overall plebiscite and her fear lest by attending a conference to discuss an alternative plan she "might be considered to abandon that claim."

"But as a second ground", states the Dixon report, "it was said that India's position was too indefinite and she should make definite proposals for discussing settlement on the principles suggested."

Sir Owen tried to explain to Pakistan that mere attendance at a conference would not mean abandoning her main contention and that boundaries of the plebiscite area, the conditions for ensuring a free vote and the details of partition could be argued out, but Pakistan stuck to her refusal to attend the conference.

"In the course of the discussion, however", says Sir Owen "I ascertained that if the basis of the suggested settlement had been simple partition, a solution having the advantages of being immediate in its

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operation and self-executing, Pakistan would consider the matter provided that she took the Kashmir valley. I had little doubt, however, that India would not concede the valley of Kashmir in an overall partition.

The stand adopted by the Prime Minister of Pakistan led Sir Owen to the conclusion that there no longer existed any possibility of his "bringing the two parties to any compositions of the dispute over the State of Jammu and Kashmir". Both Prime Ministers conceded the correctness of his conclusion. After some discussion with the Prime Minister of India, he, however, put forth the suggestion that he might prepare a plan complete, except for details, for consideration at the Prime Minister's conference which would remove Pakistan's objection of want of definiteness in the terms of the partition and partial plebiscite. In attending the conference Pakistan would not be considered as departing from her stand on overall plebiscite and as waving her primary claim." India agreed to fall in line with the suggestion provided that Pakistan told the U.N. Representative that the fact that the "plan was based on partial plebiscite and partition would not in itself necessarily prove fatal to its consideration by Pakistan." The U. N. Representative then went to Karachi to inform Pakistan of the proposal and India's condition.

Sir Owen found Pakistan unwilling to agree to the course proposed. He, however, assured the Prime Minister that he completely understood Pakistan's stand on an overall plebiscite and that neither he nor any authority of the U. N. would 'regard him or his Government in the least degree derogating from or prejudicing that position if he complied with his request. His statement also included an expression of the view that "if Pakistan refused on that ground to join in the consideration of the intended plan she would be wanting in the fulfilment of the duty which rests upon both countries to give willing consideration to any plan put forward as containing a possibility or reconciling the conflict between the two countries and thus avoiding the dangers to which the continuance of the conflict exposes both of them". Pakistan on the faith of these assurances accepted the proposal but in her turn imposed a condition arising out of "her insistence upon the view that India would not agree upon specific practical measures which would ensure the freedom and fairness of the plebiscite."

The U. N. Representative informed Pakistan that he had in mind the setting up of an Administrative body comprising U. N. officials for the plebiscite area to ensure the freedom of the poll. The body would have the Plebiscite Administrator as its head and carry on the functions of the government in the area. It would not form new policies. He, however, 'intended that the Administrative body of the U. N. officers should have power, if they thought fit to do so, to exclude troops of every description. If, on the other hand, they decided that for any purpose troops were necessary they could request the parties to provide them. Insofar as they allowed the views of the two sides to be laid before the people of the limited area they would have power to secure equality to India and Pakistan in any such right as well as in other respects". Pakistan expressed doubt about India agreeing to the proposal and said that they were not prepared to attend a conference which must break down at the threshold if India declined to accept it. Sir Owen

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offered to consult India in advance if Pakistan agreed to come to the conference to consider his plan and do so on the footing that the presence in it of a provision for a limited plebiscite would not prove an insuperable difficulty". This Pakistan readily accepted.

Consequently on August 15, 1950, Sir Owen Dixon wired to the Prime Minister of India informing him of his experience in Karachi and requesting him to state if the presence of such provision in his plan would make it impossible for him to accept it as a whole, if not, then to name the date for a meeting in Karachi. The Indian Prime Minister wired back the following day expressing an emphatic refusal to agree to any such provision. The telegram said that should the U. N. Representative come to Delhi the Prime Minister would be glad to explain India's position "to avoid any possibility of any misunderstanding." Accordingly he went to Delhi.

Indias' objections briefly enumerated in Sir Owen's report to the Security Council were : (1) "that Pakistan is an aggressor and it would be to surrender to aggression to allow her any part in the plebiscite". "It was impossible to countenance the proposal to enable the administrative body to request the parties to provide troops" ; (2) "The provision would mean that the Government of the State would be superseded and went far beyond what is necessary for the purpose in view" ; (3) 'Only people belonging to the State should be allowed any part in the plebiscite campaign. There can be no equality of right between India and Pakistan in this or other relevant respects"; and that (4) "The security of the State would be endangered".

Dealing with these objections Sir Owen states "These arguments appeared to me to overlook the real nature of a partial plebiscite or else to make it completely impossible. The question whether Pakistan had, or had not been an aggressor had, to my mind, nothing to do with the results of a partition and the fairness and freedom of a partial plebiscite. To agree that Pakistan should take under a partition part of the State must be to agree that, independently of any such question, she took not merely an interest in but sovereignty of the territory. Again as I saw the matter, to agree that the territory not immediately divided between India and Pakistan should pass to one or the other according to the vote of the inhabitants at a plebiscite conducted by the United Nations must be to agree to text involving an equal interest in both countries in the result. Further it is to agree to the ascertainment of the people by independent authority because that authority will see that the plebiscite is freely and fairly conducted.

He had formed the opinion that it was not possible to exclude the danger of the people voting under fear or apprehension of consequences or under improper influences.

This could not be removed unless U. N. officers were "interposed temporarily in the administrative body of the State so far as it controlled the plebiscite area. The authority of the Ministry over the rest of the State would not be affected.

"I did not suppose that they would invoke Pakistan troops without good cause, but I saw no reason why both countries should not be under

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an obligation to provide troops if requested. I saw no reason to change the opinion I had formed or to depart from the provision I had intended to include. I could not expose a plebiscite, conducted under the authority of the United Nations to the dangers which I believed certainly to exist. Indeed I came to the conclusion that it would be impossible to give effect to the doctrines formulated by India in objection to my plan for partition and a limited plebiscite which I could ask Pakistan to accept", observes Sir Owen.

Nehru agreed with Sir Owen that there was nothing he could do in the sub-continent and there was no hope of agreement for a plebiscite deciding the fate of the valley. No other acceptable expedient for disposing of the valley could be suggested. The Pakistan Prime Minister also concurred in the view. Sir Own Dixon consequently left Karachi on August 23, 1950, to prepare his report for the Security Council which he submitted under cover of a letter (S 1791) dated September 15, 1950 to the President of the Council.

Sir Owen in his report after stating his experiences in the sub-continent said that he had formed the opinion that "if there is any chance of settling the dispute over Kashmir by agreement between India and Pakistan it now lies in partition and in some means of allocating the valley rather than an overall plebiscite". He was not prepared to recommend any further course of action for the Security Council. "It is perhaps best that initiative should now pass back to the parties", said he.

The report, however, recommended the Security Council "to press the parties to reduce the military strength holding the cease-fire line to normal protection of a peace-time frontier". The U. N. Military observers, in the meantime, be retained. The question of their withdrawal might, after a time, be settled in consultation with the two Governments as they could not continue there indefinitely".

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Security Council Resolution of March 14, 1950

Having received and noted the reports of the United Nations Commission for India and Pakistan, established by the resolutions of 20 January and 21 April 1948 ;

Having also received and noted the report of General A. G. L. McNaughton on the outcome of his discussions with the repressentatives of India and Pakistan which were initiated in pursuance of the decision taken by the Security Council on 17 December 1949 ;

Commending the Governments of India and Pakistan for their statesman-like action in reaching the agreements embodied in the United Nations Commission's resolutions of 13 August 1948, and 5 January 1949, for a cease-fire, for the demilitarization of the State of Jammu and Kashmir and for the determination of its final disposition in accordance with the will of the people through the democratic method of a free and impartial plebiscite and commending the parties in particular for their action in partially implementing these resolutions by :

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Security Council Resolution of March 14, 1950

(1) The cessation of hostilities effected 1 January 1949 ;

(2) The establishment of a cease-fire line on 27 July 1949 and

(3) The agreement that Fleet Admiral Chester W. Nimitz shall be Plebiscite Administrator ;

Considering that the resolution of the outstanding difficulties should be based upon the substantial measure of agreement on fundamental principles already reached, and that steps should be taken forthwith for the demilitarization of the State and for the expeditious determination of its future in accordance with the freely expressed will of the inhabitants ;
The Security Council,

1. *Calls upon* the Governments of India and Pakistan to make immediate arrangements, without prejudice to their rights or claims and with due regard to the requirements of law and order, to prepare and execute within a period of five months from the date of this resolution a programme of demilitarization on the basis of the principles of paragraph 2 of General McNaughton's proposal or of such modifications of those principles as may be mutually agreed :

2. *Decides* to appoint a United Nations Representative for the following purposes who shall have authority to perform his functions in such place or places as he may deem appropriate ;

(a) to assist in the preparation and to supervise the implementation of the programme of demilitarization referred to above and to interpret the agreements reached by the parties for demilitarization ;

(b) to place himself at the disposal of the Governments of India and Pakistan and to place before these Governments or the Security Council any suggestions which, in his opinion, are likely to contribute to the expeditious and enduring solution of the dispute which has arisen between the two Governments in regard to the State of Jammu and Kashmir ;

(c) to exercise all of the powers and responsibilities devolving upon the United Nations Commission by reason of existing resolutions of the Security Council and by reason of the agreement of the parties embodied in the resolutions of the United Nations Commission of 13 August 1949, and 5 January 1949 ;

(d) to arrange at the appropriate stage of demilitarization for the assumption by the Plebiscite Administrator of the functions assigned to the latter under agreements made between the parties ;

(e) to report to the Security Council as he may consider necessary submitting his conclusions and any recommendations which he may desire to make :

3. *Requests* the two Governments to take all necessary precautions to ensure that their agreements regarding the cease-fire shall continue to be faithfully observed, and *calls upon* them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further nogotiations ;

4. *Extends* its best thanks to the members of the United Nations Commission for India and Pakistan and to General A.G.L. McNaughton for their arduous and faithful labours ;

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5. *Agrees* that the United Nations Commission for India and Pakistan shall be terminated, and decides that this shall take place one month after both parties have informed the United Nations Representative of their acceptance of the transfer to him of the powers and responsibilities of the United Nations Commission referred to in paragraph 2 (c) above.

The Dixon Report

Letter dated 15th September 1950, to the President of the Security Council from the United Nations Representative for India and Pakistan transmitting his Report. (*S/1791*)

Sir,

I address this letter to you as President of the Security Council and with it I hand to you in that capacity a report to the Security Council of the manner in which I have attempted to carry out the duties committed to me by the resolution adopted by the Council on 14 March 1950. (S/1449)

The presentation of this report is the final step in discharge of my functions under the resolution and I beg to request a formal termination by the Security Council of my position as United Nations Representative for India and Pakistan.

Yours faithfully,

OWEN DIXON,
UNITED Nations Representative,
For India & Pakistan

Report to the Security Council of Sir Owen Dixon, United Nations Representative for India and Pakistan :

"1. I have the honour to submit to the Security Council the following report of my attempt to carry out the duties committed to me by the resolution of the Security Council of 14th March 1950. [S/1469]

2. By that resolution the Security Council called upon the Governments of India and Pakistan to make immediate arrangments to prepare and execute within a period of five months from that date a programme of demilitarization on the basis of certain principles or of some agreed modification of those principles. The Security Council by the same resolution decided to appoint a United Nations Representative for certain purposes which included assisting in the preparation of the programme of demilitarization, placing before the Governments or the Security Council any suggestions which in his opnion would be likely to contribute to the expeditious and enduring solution of the dispute between the two Governments about the State of Jammu and Kashmir, exercising the powers that belonged to the United Nations Commission for India and Pakistan and reporting to the Security Council.

*The map referred to in this docunment will be submitted as an Aunex, at a later date

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3. The choice of the Security Council fell upon me and on 13th April I received news in Sydney of my appointment as United Nations Representative. I at once took steps to discharge myself of my then current responsibilities in Australia and on 26th April I left Sydney for Lake Success. I left New York on 21st May 1950, for Delhi *via* London, having spent the interval from my arrival on 28th April in obtaining as much information as I could about the nature of the problem with which I was to deal, in making necessary administrative arrangements and in dealing with the appointment of a staff.

4. I went first to Delhi rather than to Karachi, because the Prime Minister of India was about to leave for Indonesia and wished to see me before his departure. The Prime Minister of Pakistan was at that time in the United States. I arrived in Delhi on 27th May 1950. By that time over ten weeks of the five months mentioned in the first paragraph of the Security Council's resolution had elapsed, but so far as I am aware no steps in pursuance of the paragraph had been taken by the two Governments. I spent some days learning from the Prime Minister of India and from members and officers of his administration the nature of India's contentions and her standpoint generally concerning the Kashmir dispute.

5. On 1 June I went to Karachi and there from Sir Zafrulla Khan and members and officers of the Pakistan Government I obtained the corresponding kind of information about Pakistan's position.

6. I left Karachi for Srinagar in the Kashmir Valley on 27th June. I remained in Jammu and Kashmir with my base at Srinagar from that date until 12th July. My purpose in going to Kashmir was to obtain a knowledge of the country, the people, the topographical features, the cease-fire-line, the general disposition of the armed forces on either side of the cease-fire-line and the other conditions and circumstances existing in the State which would or might assist me in understanding the dispute and the possible means of resolving it. I moved about a good deal and amongst other places I visited Bandipura, Sonamarg and Baltal. Poonch and the adjacent area, Rawalakot, the road from Rawalpindi through to Srinagar along the Jhelum Valley, which I traversed several times, and places and posts along that route, Skardu and Gilgit, Jammu adjacent posts and Leh.*

7. While I was in Srinagar I had more than one interview with Sheikh Abdullah, the Prime Minister of the State.

8. After I had completed my journeys, inspections and enquiries I remained at Srinagar and occupied myself in the consideration and preparation of plans. I would not have remained in Srinagar so long had it not been for the continued absence from the sub-continent of both Prime Ministers. I had formed the opinion that my best course was to deal with the Prime Ministers and if possible bring them together at a meeting with me at which a sustained effort might be made to effect a settlement.

9. The situation as I found it presented strange features. The parties had agreed that the fate of the State as a whole should be settled by a general plebiscite but over a considerable period of time they had failed to agree on any of the preliminary measures which it was clearly

*See appended map.

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necessary to take before it was possible to set up an organization to take a plebiscite. From 20th October 1947, to 1st January 1949, the State of Jammu and Kashmir had been the scene of continual fighting and some very serious and difficult military operations had been conducted there. But the fighting had been confined to the State. On 1st January 1949 there was a "cease fire" ordered upon the respective fronts and in July India and Pakistan agreed upon the position on the ground of the line which was to separate the territories they had respectively. On the Indian side of this "cease-fire-line" the forces occupying the territory consisted of troops of the regular Indian Army, State troops and State militia. On the Pakistan side the forces were composed of troops of the Pakistan regular army, Azad Kashmir forces and Northern Scouts. The cease-fire-line itself was held in strength and thus two considerable armies stood opposed to one another.

10. The United Nations had established a corps of officers provided by various countries to act as observers and assist in maintaining the cease-fire along the line and to secure compliance by the parties with the terms of the armistice. Incidents in which the troops on one side fired on troops on the other or upon a civilian or civilians occurred frequently at some point or another on the line but the incidents nearly all proved of small importance relatively and none threatened a general outbreak of hostilities.

11. The territory on the Pakistan side of the cease-fire-line seemed to be administered through an Azad Kashmir "Government" on the west but in the north through political agents directly responsible to the Pakistan Government.

12. On the Indian side of the cease-fire-line the administration of the government of the State was in the hands of Sheikh Abdullah and his colleagues, subject, however, to the federal powers of India over such matters as defence and external affairs, obtained under the Instrument of Accession to India. (*See* Sec. 370 of the Constitution of India). These powers, however, were extensive enough for the purpose of any matter which could arise in relation to the Kashmir dispute or its settlement.

13. It was obvious to me that in my attempt to settle the dispute I must be governed by the course that had been taken by the Security Council and the United Nations Commission for India and Pakistan and agreed upon by the parties. It might be true that the chances of such a course proving successful were much reduced by the failure of the parties over so long a period of time, notwithstanding the assistance of the Commission to agree upon any practical measures in pursuance of that course for the solution of the problem. But the terms of the agreed resolution of 5th January 1949, were specific in appointing a free and impartial plebiscite as the means by which the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided. What was wanting was agreement upon the matters, including demilitarization, which were preliminary to even the commencement of the necessary arrangements for the taking of a poll of the inhabitants.

14. Primarily my duty, as I conceived it, was to attempt to bring about an agreement upon measures by the execution of which it would be made possible for the Plebiscite Administrator to begin his work of organizing an overall plebiscite. Only if and when I was satisfied that no such agreement could be brought about and that all real chance of it was at end,

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ought I to turn to some form of settlement other than a plebiscite of the whole State. At the earliest stage possible I informed each of the parties that this was the position I adopted.

15. In examining the history of past attempts to effect a settlement of the dispute and in listening to India's explanation of her "case" and of the stand she took, I formed the opinion that if I was to succeed in bringing about an agreement upon the matters preliminary to an overall plebiscite it would be necessary to meet certain objections which it would make. There was first the allegation, so often repeated by India, that Pakistan was an aggressor who had no *locus standi* and whose troops had no title to be within the State. There was the position taken by India that during the period of preparation for, and the taking of the plebiscite the territory to the west of the cease-fire-line should not be under the immediate governmental authority and direction of Pakistan or be administered by the Azad Kashmir "Government". There was the claim made by India that there must be no impairment of, or prejudice to, the recognition of the sovereignty of the State of Jammu and Kashmir over the Northern areas *i.e.* the areas to the north of the cease-fire-line when it turns to run east, there was the assertion that if there was a very great reduction of troops on India's side of the cease fire-line there would be danger of further incursions from the other side of the line. These were objections the application and consequences of which might be developed in detail, but it is enough for me to state briefly their nature.

16. In preparing my plans to lay before the Prime Ministers I endeavoured to meet these various positions. But I was very much alive both to the necessity and the difficulty of securing the freedom and fairness of the plebiscite. The plans I had in mind for the Pakistan side of the cease-fire-line would I thought remove any difficulty there. But I felt much concern about the Indian side of the cease-fire-line. If bodies of troops belonging to one side remained in populous areas, if all the powers of Sheikh Abdullah's Administration, which had the deepest possible interest in the result of the poll, remained exercisable, if the State Militia went about under arms and the State police were left to exert whatever influence arise from their position in such a community, it appeared to me that there were the gravest dangers to a free expression of the will of the inhabitants, and almost a certainty that if the result was adverse to Pakistan she would challenge the plebiscite as neither free nor fair. I therefore worked up more than one plan or set of plans to deal with this situation. In doing so I saw that this was a question in which the Security Council itself was directly interested. For the plebiscite was to be conducted under its authority and it would not be right for me as a United Nations Representative to put forward or consent to conditions of settlement which would expose a plebiscite taken because of intimidation or the apprehensions of the voters or for other reasons it was not free and fair.

17. The Prime Minister of India returned to New Delhi on 24 June 1950, and the Prime Minister of Pakistan returned to Karachi on 13 July 1950. They both agreed to meet me in New Delhi on Thursday, 20 July for the purpose of attempting together to settle the Kashmir question.

18. The meeting began at 4 o'clock in the afternoon of the day arranged and continued from day to day until Monday, 24 July when by common consent it was brought to an end. At the opening of the meeting

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I informed the two Prime Ministers that as far as I was concerned they could talk with the utmost freedom because, subject to one qualification, what they said need not be disclosed. That qualification was that, if my Mission failed, I must report to the Security Council the nature of the proposals made and rejected, and if, on the other hand, agreement was reached the agreement would of course be reported. I stated at the outset that I proposed to pursue the question of the measures necessary to make it possible to hold a plebiscite to determine the destination of the State of Jammu and Kashmir as a whole, the first measure being of course the demilitarization of the area.

19. I found that neither country had any affirmative plans or proposals which her Prime Minister wished to put forward. I therefore proceeded to describe the course which I would propose to them.

20. The first matter which I raised was the necessity, in the event of agreement, of insuring that each party felt full confidence that whatever steps a settlement might make incumbent on the other party to take would, in fact, be taken more particularly in the withdrawal of troops and the reduction of military strength, and I suggested that, independently of other reasons for confidence which I emphasized, this could be secured by avoiding indefinite undertakings and by stipulating that no cause for refusal or failure to do what the party undertook to do should suffice unless an appropriate authority of the United Nations so certified. To this there appeared to be no specific objection.

21. Upon a number of occasions in the course of the period beginning with the reference on 1 January 1948 of the Kashmir dispute to the Security Council, India had advanced not only the contention to which I have already referred that Pakistan was an aggressor but the further contention that this should be declared. The Prime Minister of India at an early stage of the meeting made the same contention and he referred to it repeatedly during the conference.

22. I took up the positions, first that the Security Council had not made such a declaration : secondly that I had neither been commissioned to make nor had I made any judicial investigation of the issue ; but thirdly that without going into the causes or reasons why it happened, which presumably formed part of the history of the sub-continent. I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed on, I believe, 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State that too was inconsistent with international law. I therefore proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan Regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of the cease-fire-line should take place and, as far as practicable, concurrently. What number of days should be fixed as significant was a matter of detail for them to settle.

23. The Prime Minister of Pakistan expressed strongly his dissent from the third of the three positions I took up, that is to say the third of the positions stated above. But he expressed his readiness to accept, in compliance with my request, the proposition that as a first step in demilitarization the withdrawal of the regular forces of the Pakistan Army

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should began on a specific day and that a significant number of days should elapse before the commencement of any operation involving forces on the Indian side of the cease-fire-line.

24. The purpose of this report in dealing with the meeting is to state what proposals were made and the extent to which they were rejected. For that purpose it is not necessary to adhere to the order followed in the discussion, an order governed by the desirability of giving the Prime Ministers a general understanding of the basis of my proposals and also of pursuing them and any alternative suggestions in detail. I shall therefore state at once in outline what were the rest of my proposals for demilitarization of the area.

25. After fixing a day and hour for the withdrawal of the forces of the Pakistan Regular Army from the area west or west and north of the cease fire-line, the parties would, according to my proposal, fix so many days, from the commencement of such withdrawal, for India to begin the removal of the armed forces in the area east and south of the cease-fire-line. I asked for :

(1) the withdrawal of the forces of the Indian Regular Army,

(2) the withdrawal or disarming and disbandment of the Jammu and Kashmir State Forces,

(3) the disarming and disbandment of the Jammu and Kashmir State Militia.

26. I made no stipulation as to the sequence of these three operations relatively to one another.

27. On the other side of the cease-fire-line my proposal was that Pakistan would commence to disarm and disband—

(1) the Azad Kashmir Forces, and

(2) the Northern Scouts.

28. I proposed that the day and hour for her commencing to do so should be fixed by reference to the withdrawal of the Pakistan Regular Army. I suggested that the foregoing operations on each side should be divided into phases and that plans should be prepared for the carrying out of each phase by the respective Chiefs of Staff and that my Military Adviser should consider each plan and should be entitled to recommend alterations.

29. I also suggested that the Pakistan plans should be settled first and that then my Military Adviser should furnish them to the Indian Chief of Staff so that such plans would be before them when settling their own plans.

30. Turning to the forces that either party might need on their respective sides of the present cease-fire-line after demilitarization and pending the plebiscite I said that this should be determined acording to purpose. The presence of armed forces during the period preceding the taking of the vote and while it was being taken tended against the independence of the voting and the fairness of the poll and the number of the troops should therefore be as small as possible. I suggested that if the purpose was defined for which armed forces were needed it would then become a matter for the Chiefs of Staff in consultation with my Military Adviser to agree on the forces to be used and their disposition.

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31. I said that as far as I could see there could be no need for troops unless for one or other of certain possible purposes which I stated. On the Pakistan side I mentioned the purposes :—

(i) of ensuring the fulfilment of the obligation of Pakistan not to permit tribesmen, marauders or other raiders to enter the Kashmir Valley from her side of the cease-fire line;

(ii) of disarming and disbanding the Azad Kashmir Forces, a temporary purpose involving perhaps chiefly the Ordnance Corps;

(iii) of quietening the fears which might possibly arise among Muslims, if they were left entirely without any ostensible protection, and perhaps of aiding the civil power in maintaining order.

On the Indian side the purpose of troops would be :

(i) to be available in aid of the civil power in maintaining order where the population was mixed in the south or south-west of the State;

(ii) to guard the northen approaches to the Valley agaisst possible incursions through or by way of the Jhelum Valley, Keran and Tithwal and thence by Handwara, The Tragbal Pass from Gurais to Bandipura and the Zoji-la Pass and thence to Baltal and Sonamarg.

32. The Prime Minister of India rejected this plan on grounds of which it is impossible in this report to give an exhaustive statement. But he made these points and they are enough for the purpose of this report without going into arguments of a more abstract description.

I state the points in a summary form:—

(1) The possibility of Pakistan making an attack notwithstanding the withdrawal of her forces and notwithstanding any assurance she might give must be taken into account amongst other dangers for which India might need forces on her side of the cease-fire-line pending the plebiscite.

(2) The need for protecting the area against the incursions of marauders or more serious dangers could not be limited to specific approaches such as I had mentioned.

(3) The Militia, which were organized and paid by the State, though under the command of Indian officers, performed duties of police and in any case could not be disarmed and disbanded without prejudicing the organization of the State. It was a thing India would not ask the State to do.

(4) The reason why India was being asked to limit the forces she would use in discharging her responsibilities in the defence of the State as part of India was because there had been an invasion of the State and because Pakistan and Azad forces remained within its boundaries and that was a thing India could not countenance for a moment.

33. These matters were elaborately discussed.

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34. To the first point the Prime Minister of Pakistan replied that Pakistan would commit no such breach of faith that in any case it would be folly for her to do so and even greater folly to commit her forces to an attack in Kashmir and that to retain forces in order to protect the area against such a possible attack meant there was to be no demilitarization. With reference to the third point I said that it was immaterial to me how the Militia were dealt with or disposed of so long as they did not form a body of armed men in excess of the forces which were allowed to remain on the Indian side of the cease-fire-line because they were agreed to be necessary for the military purpose in contemplation. There were other ways of seeing that they were not present as a body of armed men in the area while the vote was about to be taken. But it was inconsistent with the fairness or freedom of the plebiscite to have any such exhibition of force as would be involved in the presence of the Militia, more especially as the State Government was so vitally interested in the result of the plebiscite. As to the fourth point I said that the reason for my asking for a restriction of the armed forces in the area was in order to ensure the freedom and fairness of voting at plebiscite to be conducted by the Plebiscite Administrator for the United Nations, and it was not because of the events to which he referred.

35. The Prime Minister of India had spoken of the kind of forces that should be used on the Pakistan side of the cease fire-line and had said that their purpose must be civil and they must have a civil character.

36. The Prime Minister of Pakistan did not deal with this question.

37. The attempt to obtain demilitarization appeared to break down because of the foregoing objections. No alternatives were suggested and no solution of the difficulties was put forward by either party.

38. The resolutions of the United Nations Commission of 13th August 1948, and 5th January 1949, were based on the assumption that the boundary formed by the cease-fire line would continue until the plebiscite was held notwithstanding demilitarization. Neither Prime Minister sought to depart from this assumption. But India's attitude had been that no authority other than that of the State should be recognized in the area on the other side of the cease-fire-line and paragraph A-3 of Part II of the Resolution of 13th August 1948, provided that pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

39. To meet India's position, which was emphatically maintained, to resolve the difficulties to which the uncertainty of the meaning of the words "local authorities" and "surveillance" had given rise, I put forward a proposal for the area west of the cease-fire-line. According to the proposal the administration of the services of Government would proceed according to the law and custom of the State as existing before the troubles arose. It would be carried on by the persons now holding or assuming to hold the offices of District Magistrate or subordinate offices. To ensure that they carried out their duties and exercised their powers fairly and impartially and without interference with or prejudice to the holding of the plebiscite or what the Plebiscite Administrator directed, an officer of the United Nations would be attached to every District Magistrate. His powers would be of supervision and he would report to the United Nations Representative, or his delegate, who would

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take what steps he considered desirable.

40. I proposed that it should be expressly provided that neither that provision nor any other provision in the agreement should be taken to import any recognition of the existence of any source of legal authority in such territory other than one depending upon and derived from the law of the State, or to imply any derogation from or prejudice to the sovereignty of the State. I pointed out that my purpose was to provide for the practical exigencies which an interim period created and at the same time to give effect to the principle for which India sought recognition.

41. To this plan, however, the Prime Minister of India objected, chiefly, as I understood it, on the ground that it recognized existing District Magistrates and subordinate officers and that in the period since the troubles arose men had been appointed to replace the former officers and that they, or some of them, were, or might be, repugnant to India. No alteration of the plan, however, was suggested and no alternative was put forward.

42. For the northern areas, that is the territory north of the cease-fire-line and east of the district of Muzaffarabad and of the Gilgit Sub-Division and of the political districts of Gilgit Agency, I put forward a separate proposal. I did so because special difficulties appeared to be raised by the objections of India that during the interim period from demilitarization to the plebiscite, the authority of Pakistan should not continue and should not be recognized. My proposal there was to appoint Politlcal Agents representing the United Nations and to vest authority in them. The plan provided that instead of the existing Assistant Political Agents there should be a Political Agent or Agents appointed by, or under the authority of, the Security Council of the United Nations, after consultation with India and Pakistan. The plan went on to make the power of these officers depend upon the law and custom of the State as on 1st August 1947 and to place upon them the responsibility of causing the powers vested in them to be so exercised that there would be no interference with, or prejudice to, either the holding of the plebiscite or the directions of the Plebiscite Administrator and so that the administration should be fair and impartial. But save as aforesaid such an officer might administer the government through existing channels of authority and through the officers holding office and he might act through the present Assistant Political Agent.

43. To this solution of the difficulty raised about the northern areas the Prime Minister of India objected on the grounds:—

(*a*) that existing officers appointed by Pakistan were of a character which India could not countenance,

(*b*) that any consultation with Pakistan recognized her title to be in the Northern Areas,

(*c*) that the Political Agents representing the United Nations would be necessarily guided by existing Administrative Officers and would be unable effectively to insure fairness, etc,,

(*d*) that in any event India must place garrisons or military posts

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in certain places on the northern side of the cease-fire-line.

44. It was clear to me that Pakistan could not be expected to agree to the fourth objection. As to the other objections India did not put forward any suggestion for the amendment of the plan or for any alternative solution.

45. On the Indian side of the cease-fire-line it appeared to me that some provision was necessary to ensure that arbitrary powers which at present exist were not exercised so as to interfere with the freedom of the plebiscite and that police powers were not so used. As I have already said the Government of the State would be vitally interested in the result of the plebiscite. Paragraph 7 of the resolution of 5th January 1949, contains general provisions directed to considerations of this kind. I therefore put forward a proposal that in order to give more specific effect to the undertakings given in paragraph 7 of the Commission's agreed resolution of the 5th January concerning the free expression of political opinion and the release of political prisoners, the agreement should state that immediately upon a date or period being formally named by the Plebiscite Administrator certain provisions should apply until the final result of the vote had been declared by him. These provisions were that—

(a) a United Nations officer would be posted with or attached to each District Magistrate;

(b) he should be entitled to see the administrative records and proceedings of the District Magistrates and all officers subordinate to the Magistrate;

(c) the duties of the United Nations officer would include observation, inspection, remonstration and report;

(d) without the prior consent in writing of the United Nations officer, no warrant or order for the arrest of any person should be granted or made under emergency powers, or any powers of detention or imprisonment reposed in any officer of the Executive Government administration, and all prisoners held under the authority of any like warrant or order when such date or period was formally named by the Plebiscite Administrator should be set free within seven days, except prisoners to whose further detention the United Nations officer consented in writing. The proposal expressly excluded from the operation of the clause a warrant for the apprehension of a person on a criminal charge for the purpose of bringing him before a Magistrate so that the charge may be dealt with, a warrant or order committing for trial or committing or remanding to gaol pending an adjournment of the hearing of a charge, a conviction upon a criminal charge, and any other made in the exercise of judicial power.

46. To this plan the Prime Minister of India objected on the grounds that it involved an interference with the integrity of the functions of the State and an impairment of the powers of arrest, which might prove dangerous in case of subversive elements and of persons seeking to take advantage of the situation to stir up communal strife and violence.

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47. Again no modifications or alternatives were put forward or suggested. All these matters were fully discussed.

48. It will be seen that the plans described up to this point for dealing with the questions concerning the demilitarization of the State and other preparations for the taking of the plebiscite dealt with these matters on the assumption that during the period of the plebiscite, the State would be divided by the cease-fire-line as a political boundary. It is evident that if the State could have been placed under one administration so that the political boundary would cease to exist a great many of the difficulties to which the foregoing plans were directed would disappear. Therefore by way of an alternative I put forward plans for bringing into existence for the plebiscite period a single government for the whole State. The plans were of three descriptions and I asked the Prime Ministers whether it was possible to put one or other of them into effect.

49. The first possibility about which I inquired was that of bringing into existence a coalition government, that is either a coalition brought about by a meeting of Sheikh Abdullah and Mr. Ghulam Abbas, Supreme Head of the Azad Kashmir Movement, or by placing certain portfolios at the disposal of the respective parties.

50. The second plan was for the formation of an administration for the entire State composed of trusted persons outside politics holding high judicial or administrative office and commanding general confidence The body would be charged with the administration of the Government of the State for a fixed period before the poll, perhaps six months before it. The chairman would be appointed by the United Nations, and of the other members half would represent Hindus and half Muslims. The existing Ministers would continue to hold office but they would be relieved of their responsibilities during the period.

51. The third plan differed from the second only in the constitution of the administrative body. It was to be constituted altogether of United Nations representatives. None of these suggestions commended themselves to the Prime Minister of India.

52. In the course of Conference I mentioned very briefly one or two other possible ways of reaching a plebiscite. In the end I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to provisions governing the period of the plebiscite of any such character as would, in my opinion, permit of the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled.

53. Having come to this conclusion I thought that I must either abandon all attempt to settle the dispute or turn from the plebiscite by which the destination of the whole State would be decided to some different solution. I ascertained from the Prime Ministers that they considered that with such a plebiscite in view there was no longer any hope of agreement upon demilitarization or upon the conditions which would follow demilitarization or upon any modified form of demilitarization or upon any course that would advance the position towards a settlement.

54. Having done so I asked the Prime Minister of India, the Prime Minister of Pakistan being present, what was the attitude of India :

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(*a*) to a plan for taking the plebiscite by sections or areas and the allocation of each section or area according to the result of the vote therein or,

(*b*) to a plan by which it was conceded that some areas were certain to vote for accession to Pakistan, some for accession to India, and by which, without taking a vote therein, they should be allotted accordingly and the plebiscite should be confined only to the uncertain area, which I said appeared to be the Valley of Kashmir and perhaps some adjacent country.

55. I pointed out that in both cases it would be necessary to provide against the possibility of a break in the continuity of the territory, which would go to the one party or to the other. I also pointed out that the second alternative might be worked out according to the 1941 census alone or upon wider considerations as well as the information it contains. Further I said that it would be necessary to agree that if the result was to put the upper waters of the Chenab River into the control of India she would not divert them by artificial works so that Pakistan would receive a sensibly reduced volume of water.

56. The Prime Minister of Pakistan protested against the course proposed on the ground that it meant a breach on India's part of the agreement that the destination of the State of Jammu and Kashmir as a whole should be decided by a single plebiscite taken over the entire State. But at my request the Prime Minister of India said that he would inform me of the views of India upon such a method of settling the Kashmir problem.

57. The Prime Ministers thereupon agreed to the adjournment of the conference.

58. In taking the course I have described I acted under the resolution of the Security Council dated 14th March 1950, by which I was required to place before the two governments any suggestion which, in my opinion, was likely to lead to the solution of the dispute. Notwithstanding the attitude of the Prime Minister of Pakistan I considered that unless it was by a partition of the State either outright, or combined with a partial plebiscite limited to an area which included the Valley of Kashmir, no agreed settlement of the Kashmir dispute could be brought about. From that time therefore I devoted myself to an attempt to negotiate a settlement in some such manner.

59. I spent some time in Delhi for the purpose of obtaining from India as definite an understanding as might be of her position with respect to the suggested lines of settlement. After consideration the Indian authorities informed me that the Government of India would be prepared to discuss a settlement of the Kashmir dispute on the basis of certain principles. The principles were, first that the areas of the State of Jammu and Kashmir where there is no apparent doubt as to the wishes of the people in those areas should go to India or Pakistan without a plebiscite, secondly that the plebiscite should be limited to those areas where there is doubt as to the result of the voting, and thirdly that the demarcation should have due regard to geograpihcal features and to the requirements of an international boundary. I was informed that in applying these principles the government had been led to some conclusions which were described as tentative.

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60. In the first place there should be a plebiscite in the Valley of Kashmir. The area should however include part of the Muzaffarabad District to bring in what India regarded as the natural geographical feature provided by the river Kishanganga and its watershed on the north.

61. In the second place India considered that the following areas should go to her :

(1) the Province of Jammu so far as it lies east of the cease-fire-line subject to minor corrections ; one correction was to reduce the bulge in the cease-fire line near Gulmarg.

(2) In the district of Ladakh, the tehsil of Ladakh and the tehsil of Kargil except approximately the area above the Suru River, which should go to India or Pakistan according to the result of the plebiscite of the Valley.

62. In the third place India was willing that the following areas should go to Pakistan, *viz.*, Gilgit, Gilgit Agency, Gilgit Wazarat, political districts and tribal territory and Baltistan and so much of the Jammu Province as lies to the west of the cease-fire-line as corrected.

63. India contemplated a boundary commission to apply on the ground the division which might be decided upon.

64. It also appeared that India was prepared to include in any such settlement a term that she would not by any artificial works in the State divert the waters of the Chenab River or reduce the flow substantially of the waters of the river except that she might construct canals for irrigation confined within the State. Without reducing the waters of the stream she might establish hydro-electric works for a production of electrical energy.

65. I was told that the Prime Minister of India would be prepared to attend another conference with the Prime Minister of Pakistan and me so that the possibility of a settlement on such principles might be discussed.

66. The territorial demands which the foregoing information disclosed appeared to me to go much beyond what according to my conception of the situation was reasonable and I so stated to the Indian authorities.

67. Thus armed with a knowledge of the position taken up by India I went to Karachi.

68. I told the Prime Minister of Pakistan of what I had learned from India as to the position she took, but I added an expression of my own opinion that the territorial claims it involved went too far and did not represent the division of the State to which in the end India might be expected to agree. But the Government of Pakistan declined to attend a conference on the footing I proposed in order to discuss in the light of the position taken by India the possibility of settling the dispute.

69. The primary reason of the Government of Pakistan for refusing to do so lay in their unwillingness to depart at all from the claim that the fate of the entire State of Jammu and Kashmir should be decided by an overall plebiscite and that India ought to have agreed and ought still to agree on measures for holding such a plebiscite and in their fear lest by attending a conference to discuss an alternative plan they might be considered to abandon that claim.

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70. But as a second ground it was said that India's position was too indefinite and if she wished to embark upon discussions of the possibility of settlement according to the suggested principles she should herself make definite proposals

71. I urged upon the Government of Pakistan the view that by coming to a conference to discuss an alternative possible settlement they could not be held to abandon their main contention and that the purpose of a conference was by discussion to define what things the parties were respectively prepared to concede and upon what things they took a fixed position. It was enough that the basis of the settlement to be discussed was s limited plebiscite and partition of the rest of the State, the Kashmir Valley being included in the plebiscite area. I did not see why it should not be possible for the parties to argue out the boundaries of the plebiscite area, the division of the remaining territory and the conditions for securing the independence of the voting until either they saw that they could not agree or else found some basis of agreement. Even on the assumption that the conference failed, Pakistan would come away from it better informed and, so far as I could see, without having suffered any real prejudice. But of the soundness of this view I was unable to persuade her Government. Pakistan maintained her refusal to attend a conference of the kind I proposed.

72. In the course of the discussion, however, I ascertained that if the basis of the suggested settlement had been simple partition, a solution having the advantages of being immediate in its operation and self-executing, Pakistan would consider the matter provided that she took the Kashmir Valley. I had little doubt, however, that India would not concede the Valley of Kashmir in an overall partition.

73. I returned to Delhi and informed the Prime Minister of India of the position taken by Pakistan. As I had expected he declined to consider at all an overall partition in which the Valley of Kashmir went to Pakistan.

74. The stand adopted by the Prime Minister of Pakistan had led me to the conclusion that there no longer existed any possibility of my bringing the parties to any composition of the dispute over the State of Jammu and Kashmir. In this view I found that both Prime Ministers concurred. But at the end of some discussion with the Prime Minister of India of the consequences which followed, I put forward as a last possibility of saving the situation a suggestion that I myself should prepare a plan complete except of details.

75. The plan would be one for holding a partial plebiscite in a limited area including or consisting of the Valley of Kashmir and for partitioning the remainder of the State. I would then call a conference and lay the plan before them for acceptance or rejection, or if independently of me the parties wished to modify it by agreement, for modification accordingly.

76. I told the Prime Minister of India that I thought that Pakistan might take the view that she could have no cause for fear that by complying with my invitation to take part in such a proceeding, she would be considered as departing from her stand on the overall plebiscite and as waiving her primary claim. The course I suggested, I added, also removed the objection of want of definiteness in the terms of the partition and

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partial plebiscite which would be tabled for consideration at the conference.

77. After a little discussion of the chances of such a course proving successful and of the disadvantages which it would have if it proved unsuccessful, the Prime Minister of India took time to consider the matter. Later in the day he informed me that it had been decided to fall in with the suggestion, provided that Pakistan told me that the fact that my plan was based on partial plebiscite and partition would not in itself necessarily prove fatal to its consideration by Pakistan. For India would not agree to a meeting which could not but prove futile.

78. I returned to Karachi and placed before the Government of Pakistan the proposal that, as a last resort, I should prepare a plan of the kind stated and lay it before a meeting which I would convene, and I told them of the condition imposed by India. At first the Government of Pakistan was unwilling to agree in the course proposed. But after much discussion of the matter I gave to the Prime Minister of Pakistan a statement that I completely understood his Government's position in standing on the overall plebiscite and I gave him an assurance that neither I nor any other authority of the United Nations would regard him or his Government as in the least degree derogating from or prejudicing that position if he complied with the request I made to him to examine and take into consideration the plan which I was ready to prepare and submit, although it was of an alternative character. My statement included an expression of the view that if Pakistan refused on the ground stated to join in the consideration of the intended plan she would be wanting in the fulfilment of the duty which rests upon both countries to give willing consideration to any plan put forward as containing a possibility of reconciling the conflict between the two countries and thus avoiding the dangers to which the continuance of the conflict exposes both of them.

79. On the faith of the assurances my statement contained, the Government of Pakistan agreed to comply with my request to attend a conference to consider my intended plan, notwithstanding that it was based on an alternative to an overall plebiscite. But Pakistan in its turn imposed a condition. The condition arose out of its insistence upon the view that India would not agree upon specific practical measures which would insure the freedom and fairness of the plebiscite.

80. In fact I had decided that I would use for the limited plebiscite area one of the measures which I had proposed for the whole State on the footing that the cease-fire line might thus be terminated. I intended to provide that an administrative body consisting of United Nations Officers should be set up in the limited plebiscite area. The Plebiscite Administrator would be at the head of the body. The body would carry on the functions of government in the area until the poll was declared. It would not be the body's function to form new policies but to carry on the administration of government in the area. I intended that the administrative body of United Nations Officers should have power, if they thought fit to do so, to exclude troops of every description. If on the other hand they decided that for any purpose troops were necessary they could request the parties to provide them. Insofar as they allowed the views of the two sides to be laid before the people of the limited area, they would have power to secure equality to India and Pakistan in any such right as well as in other respects.

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81. I informed the Pakistan Government that I intended to include a provision of this nature. It expressed doubt as to India's agreeing to it and said that it was not prepared to attend a conference which must break down at the threshold if India refused to accept it. I then offered to consult India in advance upon the matter provided that, subject to India's answer, Pakistan agreed to the course I proposed, namely that she would come to a conference to consider a plan to be prepared by me and would do so on the footing that the presence in the intended plan of a provision for a limited plebiscite would not prove an insuperable objection.

82. To this Pakistan agreed.

83. I then informed the Prime Minister of India by telegram* of the assurances I had given Pakistan and of the kind of provision that my plan would contain for the purposes of securing the fairness of the plebiscite and its freedom from any suspicion of intimidation. I asked him to inform me if he was of the opinion that the inclusion in my plan of such a provision in order to secure the freedom and fairness of the plebiscite made it impossible for him to accept the plan as a whole. Otherwise I requested him to name a date for the meeting.

84. The Prime Minister of India answered by telegram* expressing an emphatic refusal to agree to any such provision. The telegram said at the end that if I came to Delhi the Prime Minister would be glad to explain India's position fully to me to avoid any possibility of my misunderstanding.

85. Accordingly I went to Delhi.

86. I shall enumerate the objections briefly as I collected them from the telegram and from my discussion with the Prime Minister at Delhi.

(a) Pakistan is an aggressor and it would be to surrender to aggression to allow her to take any part in the plebiscite. For the same reason and because of the danger involved, Pakistan's troops can never be allowed to enter the plebiscite area and therefore it was impossible to countenance the proposal to enable the administrative body to request the parties to provide troops if it thinks them necessary.

(b) The provision would mean that the Government of the State would be superseded and went far beyond what is necessary for purpose in view.

(c) Only those people belonging to the State of Jammu and Kashmir should be allowed any part in the "campaign" over the plebiscite. There can be no equality of any right between India and Pakistan in this or other relevant respects.

(d) The security of the State would be endangered.

87. These arguments appeared to me to overlook the real nature of a proposal for partition and a partial plebiscite or else to make it completely impossible. The question whether Pakistan had or had not been an aggressor had, to my mind, nothing to do with the results of a partition and the fairness and freedom of a partial plebiscite. To agree that Pakistan should take under a partition part of the State must be to agree that, independently of any such question, she took not merely an interest in but

*See Appendix.

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sovereignty of the territory. Again, as I saw the matter, to agree that the territory not immediately divided between India and Pakistan should pass to one or the other according to the vote of the inhabitants at a plebiscite conducted by the United Nations must be to agree to a text involving an equal interest in both countries in the result. Further it is to agree to the ascertainment of the will of the people by an independent authority because that authority will see that the plebiscite is freely and fairly conducted.

88. I had formed the opinion that it was not easy to exclude the danger that the inhabitants of the Valley of Kashmir would vote under fear or apprehension of consequences and other improper influences They are not high spirited people of an independent or resolute temper. For the most part they are illiterate. There were large numbers of regular soldiers of the Indian Army as well as of the State Militia and police, and more often than not they were under arms. The State Government was exercising wide powers of arbitrary arrest. These are not matters that the Kashmiris inhabiting the Valley could be expected to disregard in choosing between voting as the Government of Kashmir asked them and voting for accession to Pakistan.

89. It appeared to me that the danger to the freedom and fairness of the plebiscite could not be removed unless in the administrative hierarchy of the State so far as it controlled the plebiscite area, United Nations Officers were interposed temporarily. The authority of the Ministry over the rest of the State would not be affected. The ordinary working of the machinery of government in the plebiscite area would go on without change, but for the limited area, the United Nations Administrator would for the time being be responsible for the working of the machinery in order to see that it was not used to influence the voters, as otherwise it well might be in countless ways.

90. The presence of numbers of troops, armed militia and police in the Valley did not appear to me to be favourable to a free expression of the people's will and I considered that the administrative body might be safely given powers to decide what was necessary to insure the maintenance of order and to protect the area from external danger if they found that any existed. I did not suppose that they would invoke Pakistan troops without good cause, but I saw no reason why both countries should not be under an obligation to provide troops if requested. I saw no reason to change the opinion I had formed or to depart from the provision I had intended to include. I could not expose a plebiscite conducted under the authority of the United Nations to the dangers which I believed certainly to exist. Indeed I came to the conclusion that it would be impossible to give effect to the doctrines formulated by India in objection to my plan and at the same time frame a plan for partition and a limited plebiscite which I could ask Pakistan to accept.

91. The Prime Minister of India concurred in the view that no hope existed of an agreement for a plebiscite by which the fate of the Valley could be decided. No other acceptable expedient for disposing of the Valley could be suggested.

92. The Prime Minister of India agreed therefore that there was nothing further that I could now do in the sub-continent.

93. I returned to Karachi, where the Prime Minister of Pakistan took the same view.

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94. I left Karachi on 23 August 1950.

95. It will be seen that two main lines have been pursued in the attempts which have been made to settle the dispute between the two countries about the State of Jammu and Kashmir. The attempt to find a solution by taking a plebiscite over the whole State and so decide by a majority to which country the entire State shall go has its origin in the first proceedings before the Security Council. It should be recalled that by the resolution of 21 April 1948, the desire of both India and Pakistan that the question of the accession of the State to one or other of them should be decided by a free and impartial plebiscite was noted with satisfaction. In the agreed resolution of the United Nations Commission for India and Pakistan of 5 January 1949 there is a recital of the acceptance by the governments of both countries of the principle that the question of the accession of the State to India or Pakistan would be decided through the democratic method of a free and impartial plebiscite.

96. From the date of this resolution until the present there have been continual efforts to bring about conditions in which the preparations for taking a poll might go forward. No one has supposed that they could even begin while much of the respective territories on either side of the cease-fire line was occupied by opposed armies and their base units. There are in addition many other obstacles to the holding of a free and fair plebiscite which must be removed before the State would be ready for the organization and machinery which the taking of a poll would make necessary. Unfortunately all this has been made to depend upon the agreement of the parties. It is enough to refer to paragraphs 2, 6 (a) and 10 of the resolution of 5 January 1949 and to the provisions of the resolution of 13 August 1948 upon which these paragraphs hang.

97. There is, I believe, on the side of India a conception of what ought to be done to ascertain the real will of the people which is not that tacitly assumed by me. Doubtless it is a conception which Pakistan does not share. The resolution of 5 January 1949 contains some rather general provisions in relation to the holding of the plebiscite and the antecedent steps and about these more general provisions the parties were able to agree. But to apply propositions of this kind, a programme of practical acts and physical events must be agreed upon. Without this it is impossible for the Plebiscite Administrator to begin the extensive and difficult work of organizing the taking of a poll. It is the practical measures which have proved the obstacle, not the more general propositions.

98. Pakistan has complained of India's failure to agree on the practical measures which must precede the preparations for the actual taking of a poll, and has maintained that this failure is the result of a deliberate policy. But the fact remains that under the resolutions the agreement of India to the course to be pursued in these matters is a condition precedent to carrying out a plebiscite of the State, and there is no such agreement. Moreover, the United Nations Commission failed in its efforts to secure an agreement upon them ; I failed in mine ; neither party put forward any other proposals and both appeared to concur in the view that the possibility of agreement has been exhausted.

99. The contention of Pakistan that it was incumbent on India to agree did not advance the matter practically. It was in these circumstances

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that I decided to turn away from a plebiscite of the whole State, an "overall" plebiscite, as a method of solving the problem of Kashmir. Partition of the whole State between the two countries is, of course, an obvious alternative. But unfortunately the Valley of Kashmir cannot itself be partitioned and it is an area claimed by each side. Pakistan claims it not only because it is predominantly Muslim but also because the Jhelum River flows from it and Pakistan will not readily give up its claim. India is just as insistent upon its claim and has the advantage of possession. Some method of allocating the Kashmir Valley to one party or the other is therefore essential to any plan of partition.

100. I am inclined to the view that no method of allocating the Valley to one or other of the contending parties is available except a poll of the inhabitants. By the inhabitants I mean those of them who fulfil whatever may be fixed as the test of eligibility to vote. The difficulty of using the expedient of a plebiscite appears to lie entirely in the conflict between, on the one hand, the necessity of ensuring that the plebiscite is held in conditions which make it an effective means of ascertaining the real will of the people independently formed and freely expressed, and, on the other hand, certain conceptions or preconceptions of the Indian Government. These are based in part on what India conceives to be the origin and course of the fighting in 1947 and 1948 and in part on its unwillingness to have any interference with or restriction of the powers of Government in the State whether in reference to the use of armed force or in reference to the civil administration. In addition it may be, as I have suggested, that a different canception exists of the process of ascertaining the will of the people. Although I myself found no reconciliation of this conflict possible, it may be that with India's help some resolution of the conflict may be discovered. She may come to realize that the necessity of practical measures which will really secure the freedom and fairness of a plebiscite must be paramount over these conceptions. At all events I have formed the opinion that if there is any chance of settling the dispute over Kashmir by agreement between India and Pakistan it now lies in partition and in some means of allocating the Valley rather than in an overall plebiscite. The reasons for this may be shortly stated.

101. The State of Jammu and Kashmir is not really a unit geographically, demographically or economically. It is an agglomeration of territories brought under the political power of one Maharajah. That is the unity it possesses. If as a result of an overall plebiscite the State as an entirety passed to India, there would be large movements of Muslims and another refugee problem would arise for Pakistan, who would be expected to receive them in very great numbers. If the result favoured Pakistan, a refugee problem although not of such dimensions would arise for India, because of the movement of Hindus and Sikhs, Almost all this would be avoided by partition. Great areas of the State are unequivocally Muslim. Other areas are predominantly Hindu. There is a further area which is Buddhist. No one doubts the sentiment of the great majority of the inhabitants of these areas. The interest of the people, the justice as well as the permanence of the settlement, and the imperative necessity of avoiding another refugee problem all point to the wisdom of adopting partition as the principle of settlement and of abandoning that of an overall plebiscite. But in addition the economic and geographic considerations point in the same dirction. The difficulty in partitioning the State is to form a sound

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judgment where the line should be drawn.

102. While what I have said deals broadly with the State as a whole, it is by no means easy to fix the limits on each side. That is because it is necessary that the territory allocated to each side should be continuous in itself and should be contiguous with that country, because there are pockets of people whose faith and affiliations are different from those of people by whom they are cut off, because the changes in the distribution of population as the result of the troubles cannot be completely ignored and because geographical features remain important in fixing what may prove an international frontier.

103. I shall not deal with the matter with more particularity, and I say so much only in case the Security Council should be of opinion that it should take further steps to effect a settlement between the parties. But for myself I doubt whether it may not be better to leave the parties to themselves in negotiating terms for the settlement of the problem how to dispose of Jammu and Kashmir between them. So far the attitude of the parties has been to throw the whole responsibility upon the Security Council or its representatives of settling the dispute, notwithstanding that, except by agreement between them there was no means of settling it.

104. When actual fighting was going on between them it was natural, if not necessary, that the Security Council and the Commission as its delegate should intervene between them and propose terms to stop the hostilities. But when this was done to the extent of stopping open hostilities and the question came to be how to settle the rival claims to Kashmir the initiative was still left with the Security Council and the Commission. The whole question has now been throughly discussed by the parties with the Security Council, the Commission and myself, and the possible methods of settlement have been exhaustively investigated. It is perhaps best that the intiative should now pass back to the parties. At all events I am not myself prepared to recommend any further course of action on the part of the Security Council for the purpose of assisting the parties to settle between them how the State of Jammu and Kashmir is to be disposed of.

105. The continued maintenance of two armies facing one another across a cease-fire-line is another matter. A danger to peace must exist while this state of things continues. Except for mutual distrust and fear, one of another, there is no reason why the two countries should go on maintaining armies separated only by the cease-fire line. It is a boundary which might be kept by check posts and the like in the same way as any frontier between countries at peace. It is hard to believe that the Indian and Pakistan Chiefs of Staff would have any difficulty in arranging for a concurrent reduction of forces or in effecting the necessary change in the manner in which the cease-fire line is held, if they were instructed by their respective Governments to meet for the purpose.

106. Before leaving the subcontinent I addressed to the Prime Ministers severally a request that this should be done. It is a matter in which the Security Council is directly concerned because it involves a proximate danger to peace.

107. I recommend that the Security Council should press the parties to reduce the military strength holding the cease-fire line to the normal protection of a peace-time frontier.

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107. In the meantime it is my recommendation that the party of United Nations Military Observers be retained on the cease-fire line. They cannot continue there indefinitely, but after a time the question of their withdrawal might be settled in consultation with the two Governments.

OWEN DIXON
United Nations Representative
for India and Pakistan.

15th September 1950.

Attached to this report are the following documents :—

1. Telegram dated 15 August 1950 from me to the Prime Minister of India.
2. Telegram dated 16 August 1950 from the Prime Minister of India to me.
3. Telegram dated 18 August 1950 from me to the Prime Minister of India.
4. Letter dated 23 August 1950 in the same form from me to the Prime Ministers of India and Pakistan.
5. Reply dated 27 August 1950 from the Prime Minister of India to me.

OWEN DIXON.

Annex-I

(*a*) *Telegram dated 15 August 1950 from the United Nations Representative for India and Pakistan to the Prime Minister of India.*

I have encountered a great many difficulties in Karachi but they have now been resolved.

Pakistan continues to stand unequivocally on the position that under the agreed resolutions of 13 August 1948, 5 January 1949, and 14 March 1950, the decision of the destination of the State of Jammu and Kashmir is to be by an impartial plebiscite. For that reason the Prime Minister has expressed to me the unwillingness of his Government to receive or consider any alternative proposal or plan. I have informed him that I completely understood Pakistan's position and I have assured him that neither I nor any other authority of the United Nations would regard him or his Government as in the least degree derogating from or prejudicing that position if he complies with the request I have made to him to examine and take into consideration a plan which I am ready to prepare and submit although it is of an alternative character. I have said that I believe that until I have exhausted all possible methods of settlement I have not completed the discharge of my functions. I have said to him that if Pakistan refused on the ground stated to join in the consideration of the intended plan she would in my opinion be wanting in the fulfilment of the duty which rests upon both countries to give willing consideration to any plan put forward as containing a possibility of reconciling the conflict between the two countries and thus avoiding the dangers to which

*See Appendix

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the continuance of the conflict exposes both of them. I further told him that I was unable to understand how anyone could regard him as weakening his reliance upon the agreed resolutions which state that the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided through the democratic method of a free and impartial plebiscite, for no better reason than because he complied with a requst from me to give me his willing consideration to the possibility of solving by some alternative the very grave problem which exists.

On the of faith these assurances he has agreed to comply with my request.

Pakistan is ready to attend the conference on the footing that the presence in my intended plan of a provision for a limited plebiscite will not prove an insuperable objection. Pakistan, however, fears that the conference will break down because India will object to the provisions I will include to secure the fairness of the plebiscite and its freedom from any suspicion of intimidation. I do not share this fear myself because I received the impression in Delhi that India recognizes that any plan I prepare will necessarily contain provisions which will ensure that the will of the inhabitants of plebiscite area is freely expressed, uninfluenced by the presence of troops or by the fear of consequences or by other apprehensions and that in all other respects the plebiscite is fairly conducted. I blieve it was also recognized in Delhi that provisions such as I have in mind, operating in a limited plebiscite area, are not open to the objections which might be made to them if they applied throughout the whole State of Jammu and Kashmir.

It would be unfortunate, however, if you were to attend a meeting in Karachi only to find that you could not consider the plan on its merits as a whole because you objected to the particular provisions which I felt it necessary to adopt to secure the plebiscite from any suspicion that it was not free and fair. I think therefore that I should inform you in advance that my plan will include a provision for the setting up, in the limited plebiscite area, of an administrative body to carry on in that area the functions of government until the poll is declared. The Chairman will be the Plebiscite Administrator or his representative. There will be other United Nations Officers. They will be persons of administrative experience and it will be their function to carry on the administration of government in the limited area and not to frame any new policies. Their powers will be ample to exclude from the area all troops of every description. If they decide that for any purpose troopse are necessary the parties must provide them upon request. Their powers will also enable them to secure equality to India and Pakistan in any right granted to lay their views before the people and in other respects.

I have stated this because I do not wish to hold a meeting which is bound to be nothing but a formality. If you are of the opinion that the inclusion in my plan of such provisions in order to secure the freedom and fairness of the plebiscite makes it impossible for you to accept the plan even after considering it as a whole and that a meeting would therefore be futile I will be grateful if you will so inform me. Otherwise it only remains for me to set about the preparation of my plan and that will occupy me for about four days from the receipt of your reply. After that I should like to convene a meeting in Karachi at the earliest date

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convenient to you. When I know what date would suit you it would be then necessary for me to consult Mr. Liaquat Ali Khan as to its being convenient to him.

(*b*) *Telegram dated 16 August 1950 from the Prime Minister of India to the United Nations Representative for India and Pakistan.*

Thank you for your message of the 15th which I received today. I have given its contents anxious thought and am communicating to you frankly my considered reactions to it. I must confess to you that your message surprised me greatly. The main proposal in it in regard to condition governing plebiscite is completely novel and has not been previously mentioned at any stage during last two years or more.*

2. We have not opposed at any time an over-all plebiscite for the State as a whole but you made some alternative suggestions because you came to the conclusion that there were no prospects of an agreement as to conditions preliminary to such a plebiscite. On this basis I informed you that India was prepared to discuss alternative plan involving partial plebiscite provided Pakistan was also prepared to do so.

3. We have always recognised that any plan for a plebiscite should be such that the people concerned would be enabled to express their feelings freely and without fear. But your present proposal of setting up a new administrative body to carry on the functions of government is entirely opposed to our basic stand on the Kashmir issue. None of us here got the impression during our talks with you in Delhi that anything like this was in your mind. All that we discussed was the conditions governing the over-all plebiscite. What you have suggested now goes far beyond anything that we could possibly consider or accept or what, in my view, the requirements of a fair and impartial plebiscite would justify. Your proposals would involve the supersession of the lawful government of the State for a period. We cannot agree to this in any way and for any period.

4. Your proposal envisages the participation of Pakistan in the plebiscite and the calling in of Pakistan troops. Both would, in effect, constitute a surrender to aggression.

5. It has always been our view that, in the event of a plebiscite, the people of Kashmir should decide their future for themselves. Kashmiris who have gone out of the State should, of course, be entitled to return for this purpose. But I do not think that others have any claim to participate in a plebiscite campaign.

6. Whatever steps may be taken, we have always made it clear that the security of the State cannot be endangered. We have had painful experience of aggression and we cannot afford to take further risks of this kind. On no account can we permit any Pakistan troops to enter the plebiscite area.

7. Before concluding I should like to make one further observation. In paragraph 1 of your message you say that for certain reasons the Prime

*This is a mistake. In fact, if it matters, a like proposal was put forward with reference to the over-all plebiscite at the meeting with the Prime Minister in Delhi, 20th—24, July 1950. In February 1948 a similar proposal was made informally and it was attacked by Sheikh Abdullah in a speech before the Security Council. Further the resolution of 21st April 1948 contains provisions amounting practiccally to the same thing' O. D.

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Minister of Pakistan has expressed to you the unwillingness of his Government to receive or consider any alternative proposal or plan. Later on, you say that Pakistan is ready to attend conference on footing that presence in your intended plan provision for limited plebiscite will not prove an insuperable objection. There seems to be contradiction between two positions and I am puzzled. This hardly justifies any optimism regarding genuineness of desire of Pakistan to seek settlement on basis of alternative principles of partial plebiscite.

8. There are many other aspects of this matter which desevre consideration. But I do not wish to lengthen this reply. Should you, however, come to Delhi, I would be glad to explain our position fully to you to avoid any possibility of any misunderstanding.

(c) *Telegram dated 18 Angust 1950 from the United Nations Representative for India and Pakistan to the Prime Minister of India.*

Thank you for your message sent August 16th. I had not thought that in a plan for partition a provision for setting up in a limited plebiscite area an administrative body to carry on the functions of government in that area during the period of the plebiscite could be opposed to any stand previously taken by India. Once the territory of the State of Jammu and Kashmir outside the limited area is divided under such a plan between India and Pakistan each obtains an independent legal title to the part allotted to it. The occupation by Pakistan of the territory allotted to her would be in virtue of the title which partition would give her and could not be described as that of an aggressor. Which party to the partition is to have the area reserved for the plebiscite would under such a plan depend upon the vote of the inhabitants instead of the immediate operation of the agreement and I do not understand how in such a settlement the doctrine that Pakistan is aggressor having no legitimate interest could continue to apply.

The U.N. body with the Plebiscite Administrator at its head would derive its powers from the Government of the State, in the same way as might any other Provincial or District Administration. Elsewhere in the State the existing State Government would exercise its full authority except in the territory allocated in the partition to Pakistan. In many respects the ordinary working of the machinery of the State would go on in the plebiscite area, but the U. N. Administration would be in control. The view that the lawful government of the State would be superseded does not appear to me to take sufficient acconut of these considerations or of the relative size of the area involved. When at the conference between yourself the Prime Minister of Pakistan and myself at Delhi I put forward the proposal that to ensure the freedom and fairness of the over-all plebiscite the Government of the State should be temporarily entrusted to a body of administrators representing the United Nations you advanced similar objections. But apart altogether from the answers to them which I then submitted to you they do not appear to me to apply to partition and a vote in a limited area.

I have insisted always that the freedom of the plebiscite from intimidation or unfairness and from suspicions of intimidation or unfairness must be secured at all hazards and I believe that I have made it clear that I think that very real dangers of that kind exist from which it must

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be guarded. The establishment of a temporary administration body of the United Nations in a limited area to insure the removal of all suspicion that the vote is not free and fair appears to me to be both necessary and just and not to go beyond what in the circumstances is justified for the purpose of safeguarding the plebiscite.

It is hardly necessary to tell you how unfortunate I feel the difference in our standpoint to be. I will gladly come to Delhi as you suggest so that any possibility of misunderstanding may be avoided. I shall fly down on Saturday morning.

(*d*) *Letter dated 23 August 1950 in the same form from the United Nations Representative for India and Pakistan to the Prime Ministers of India and Pakistan.*

It appears to me that independently of any determination of the question of the destination of the State of Jammu and Kashmir or of any part of it, an obligation rests upon both the Government of India and the Government of Pakistan to make a mutual reduction of the armed forces of the respective countries in the territory of that State, so as to remove the danger to peace which must continue while the two armies face each other across a cease-fire line.

I have found it impossible to bring about any agreement upon the substantive dispute between the two Governments whether that dispute be regarded as one concerning the taking of a plebiscite by which the inhabitants will settle the fate of the State or more widely as one concerning the fate of the State. But, in my opinion, that is no reason why the two countries should continue to maintain opposed armies in position separated only by a cease-fire line. The line may be sufficiently kept by check-posts and such other measures as are commonly adopted upon an inland frontier between two countries at peace for the purpose of preventing or controlling entry and exit. Nothing but a common plan of a military character is needed to bring about such a state of affairs. It appears to me to be entirely a military matter to be arranged between the Chiefs of Staff of the two countries.

I, therefore, have the honour to request that you will join with the Government of Pakistan/India in causing a meeting of the Chiefs of Staff of the two countries to be held for the purpose of making the necessary arrangements for bringing about the required change in the manner in which the cease-fire line is held and reducing accordingly the military forces now serving in the State of Jammu and Kashmir on behalf of the respective countries. I request that this meeting should be held within a fortnight.

(*e*) *Reply dated 27 August 1950 from the Prime Minister of India to the United Nations Representative for India and Pakistan.*

Thank you for your letter of the 23rd August. I have gone into your suggestion with my Military Advisers. We do not consider that it is desirable now to arrange a meeting of Chiefs-of-Staff of India and Pakistan. But we are prepared to reduce, of our own accord, the strength of Indian Forces now in Jammu and Kashmir by twenty to twenty-five per cent. The suggestion that the Cease-Fire Line may be maintained merely by using check-posts and other similar measures, does not appear to be feasible.

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So long as the Kashmir dispute is not settled, effective measures are necessary to ensure the security of the State against possible aggression. If, as we hope, Pakistan also desires a settlement of the dispute by peaceful means, there should be no danger of incidents along Cease-Fire Line that might endanger peace, and United Nations Observers can help in the loyal observance by both sides of the Cease-Fire Agreement.

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Section X

The Commonwealth Premiers Efforts

The failure of Sir Owen Dixon led to a growing feeling in Pakistan to raise the Kashmir issue at the Commonwealth Premiers' Conference due to meet in London in Januury 1951. A series of communications on the subject was exchanged between Karachi and London and London and Delhi, Pakistan pressing for a discussion on Kashmir, India strongly opposing it, and the U. K. adopting a cautious non-committal attitude. As the Pakistan Prime Minister, Liaquat Ali Khan, virtually threatened to boycott the conference on the issue, a *via media* was found by arranging an informal meeting of the Premiers in London on January 16, 1951.

The meeting originally scheduled to be held at 10 Downing Street took place at the Australian Prime Minister's suite at Savoy, owing to his illness. Menzies (Australia) Attlee, (UK) Nehru, (India), and Liaquat Ali Khan (Pakistan) took major part in the discussions. The Australian Prime Minister stressed the need for early settlement of the issue and thought that a limited plebiscite would, perhaps, be better than an overall plebiscite. He suggested a Brigade of Commonwealth troops to be posted in the State for security reasons. Nehru referred to Sir Owen's opinion that an overall plebiscite was not feasible and also stated India's opposition to the two nation theory espoused by Pakistan which it would not apply to Kashmir in any case. He further maintained that he could take no decisions without consulting his colleagues in Delhi and Kashmir. Attlee refuted Nehru's contention and said that India's division had been effected on a religious basis. Liaquat Ali Khan firmly stood by his insistence on an overall plebiscite which, in his opinion, was certainly feasible, although he was prepared to consider a plebiscite by sections or areas, presumably these deciding for themselves.

The discussion, however, failed to lead to an agreed solution. Later speaking in Indian Parliament on February 12, 1951, Nehru rejected the suggestion of Commonwealth troops or any other foreign troops being permitted to land on Indian soil.

The 'Times', London, in a report in its issue of January 17, 1951, mentioned a joint Indo-Pakistan force and the Plebiscite Administrator raising local troops, as the other suggestions made at the Conference, which India rejected.

Nehru's Note on Commonwealth Premiers Meeting on Kashmir*

"This evening I attended an informal conference about the Kashmir question. This was originally fixed to be held at 10 Downing

*Read out by India's representative at the 164th meeting of the Security Council on January 24, 1957.

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Street, but owing to Mr. Menzie's illness, it was decided to hold it in Mr. Menzies, room at the Savoy. We met at 8-30 p.m. The Prime Ministers of the United Kingdom, Canada, Australia, New Zealand, Ceylon and Pakistan were present. We discussed the matter for about an hour.

Mr. Menzies and Mr. Attlee made some preliminary remarks about the extreme desirability of the Kashmir issue being settled, more especially because of the world situation. They referred to a plebiscite having been agreed to and only the conditions relating thereto being subject to dispute. Mr. Menzies expressed his opinion that probably a limited plebiscite would be more desirable, He added that, as there were legitimate apprehensions in the mind of India in regard to the Security of the State, it should be easily possible for a brigade or so of Commonwealth troops to be placed there for security reasons till the plebiscite ended. Australia would be glad to provide such troops as it was thought it would be a service rendered to the cause of world peace. Some reference was also made to the heavy expenditure on the defence of India and Pakistan.

Mr. Attlee then turned to me. I said I was at least equally desirous of a settlement of the Kashmir question. This was to the advantage of both India and Pakistan, and we hade made many attempts but thus far without success. They show obviously that it was not quite so simple as it appeared on the surface, or otherwise it would have been settled long ago. No doubt it would be settled sooner or later. I gave a very brief account of some of the difficulties and points that had arisen and added that two aspects were prominently before me. One was that no steps should be taken which might lead to an upsetting of the somewhat unstable equilibrium that had been gradually established between India and Pakistan during these past few years. There was a grave danger that if a wrong step was taken it would rouse passions all over India and Pakistan and raise new issues of vital importance. That would be a tragedy.

The second point was that I could not deal with any proposal without reference to my colleagues in Delhi and Kashmir. So far as the Government of India was concerned we had gone there on the invitation of not only the legally constituted government but also the largest popular party. Our responsibility was confined to Defence, Foreign Affairs and Commnnications. For the rest, the State Government was responsible, and we could not interfere with its discretion though we could advise them. It was neither possible nor advisable for us to come to a decision without the concurrence of the State Government.

Then the Prime Minister of Pakistan stated that the said government were just puppets appointed by me, and I could remove them or change them at any tima. I took exception to this and told them something about the background of Kashmir, and the National Conference and Sheikh Abdullah.

I had given a very brief resume of the events in Kashmir in the last few years, finishing up with Dixon and the proposals. I pointed out that Dixon had conceded that an overall plebiscite was not feasible and had therefore explored the possibility of a partial plebiscite. To the general principle of this I had agreed, subject of course, to the other matters connected with it being considered and decided upon.

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I made it clear that there was no point in discussing these matters until the principle was accepted by Pakistan, because at that time, in the discussions with Menzies, this agreement was to be by Pakistan and not by us, because we had agreed, subject to details, to the principle that Sir Owen Dixon had put forward.

Mr. Liaquat Ali Khan indignantly repudiated this. The Prime Minister of Pakistan thereupon said there was no question of an overall plebiscite not being feasible. There might be some difficulties, but obviously it could be done. I agreed that it could be done, though it might take time.

The question of feasibility did not refer to the practical difficulty of having an electoral roll, but according to Dixon, to various other factors.

Mr. Menzies stated that he had not been able to understand why the Government of the State should be pushed aside or suspended because of the plebiscite. It could very well continue although matters connected with the plebiscite might be handed aver to the Plebiscite Administrator. Attlee agrreed with this.

I told them also that there was a basic difference between our approach and Pakistan's approach to the two-nation theory, and the insistence on religious differences coming into politics. While we had reluctantly accepted certain facts we never accepted their theory, and we were not prepared to apply it to Kashmir in any event. That would be bad for Kashmir, but would be worse still for India and for Pakistan. It would go counter to the principles that governed us and might produce upheavels both in India and Pakistan. We had only recently witnessed an upheavel of this kind in Bengal, which had with difficulty been controlled by the agreement between the two Prime Ministers.

Mr. Attlee pointed out rather warmly that past history did not quite fit in what I had said. The division of India had largely been based on a religious basis. He did not like this religious basis at all, and he had tried to avoid it but facts were too strong. Further, he said that ethnic and linguistic divisons were equally dangerous, and we in India were having to face this difficulty in various parts of the country. I said that we were not enamoured of ethnic and linguistic divisions but,in the circumstance we certainly thought that any religious approach to a political problem was dangerous and explosive. We had never accepted that principle, and we did not propose to do so in future. Right from the beginning of the Kashmir trouble we had laid stress on this fact and had informed the United Nations Commission repeatedly that this appeal to religion must be avoided. In spite of this, the Pakistan Press was full of religious appeals and calls for 'Jehad'.

If this kind of thing was going to take place before and during the plebiscite period then there would be no plebiscite but civil upheavel, not only in Kashmir but all over India and Pakistan.

Mr. Menzies then said that he quite agreed that religion should be kept out of the picture and he had been much disturbed when he saw the Pakistan Press in Karachi which was writing most irresponsibly on the subject.

The Prime Minister of Ceylon was silent throughout. Mr. Attlee

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then referred to river waters in connection with Kashmir and mentioned the International Committee set up by Canada and the United States. I mentioned that Mr. St Laurent had drawn our attention to this last year, and I had stated subsequently that I would be perfectly aggreeable to having subsequent consideration of water problem as between India and Pakistan.

The Prime Minister of Pakistan at one stage referred to 'ethnic divisions of Kashmir, and said that, if necessary, a plebiscite could be held in these areas. At no time, however, did he accept the idea of a partial plebiscite. He insisted on an overall plebiscite for the State, though this might be taken separately in different areas—presumbaly to allow these areas to decide for themselves.

As Mr. Menzies was not feeling too well and had a temperature, the conversations ended rather suddenly at about 10 P. M. Mr. Menzies concluded it by saying that we might perhaps think over the various suggestions made in the course of the conversations. These were according to him, that firstly, the State Government should not be touched and should continue except in regard to functions relating to the plebiscite, secondly, the Commonwealth might provide a security force and thirdly, the plebiscite might be held in different areas.

In the course of the conversations, no reference was made either by Mr. Liaquat Ali Khan or by me to the proposal about a Commonwealth force being sent. There was no mention of these talks being resumed."

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Section XI

Graham's Attempts at Demilitarization

By a U.K.-U.S. sponsored resolution (S/2017 Rev. 1) adopted at its meeting of March 30, 1951, the Security Council decided to appoint a new U.N. representative charged with effecting demilitarization of the State of Jammu and Kashmir on the basis of the UNCIP resolutions of August 13, 1948 and January 5, 1949 and reporting within three months of his arrival on the sub-continent to the Security Council on his efforts. India and Pakistan were urged by the resolution to accept arbitration on their differences on the subject, if any, reported by the U.N. Representative.

The resolution also referred to the move by the Jammu and Kashmir National Conference, vide its resolution of October 27, 1950, to convene a Constituent Assembly for deciding the accession issue and affirmed that any action taken by it would not constitute disposition of the State in keeping with the UNCIP resolutions accepted by the parties. Pakistan had drawn the Council's attention to the matter vide its letter of December 14, 1950. B. N. Rao of India assured the Council in a speech on March 29, 1951 that "while the Constituent Assemly may, if it so desires, express an opinion on the accession issue it could take no decision on it. 'The Constituent Assembly cannot be physically prevented from expressing an opinion on this question if it so chooses. But this opinion will not bind my Government or prejudice the position of this Council'', he asserted.

Following further Pakistan communications on the subject of May 4, (S/2119) and May 8, 1951 (S/2145) relating to the State ruler's proclamation of April 30, convening the Assembly and the State Premier's statement that no power could veto the Assembly's decision on the future affiliation of the State, the Security Council sent a message on May 29, 1951 (S/2181) to the two parties reminding them of its resolution of March 30. 1951 and urging them to ensure that the authorities in Kashmir did not disregard the Council and further expressing the view that reports in Pakistan communications, if correct, would involve procedures in conflict with the commitments of the parties regarding plebiscite. Nehru in a communication (S/2182) to the Council said that he had nothing to add to Rao's statement. Later he assured Dr. Graham that India not only stood by plebiscite but was anxious to bring about conditions, as early as possible, for it to determine Kashmir's future. India, however, rejected the arbitration proposal and declined to accept the resolution on that count.

The Council on April 30 appointed Dr. Frank P. Graham, an eminent American educationist, politician and diplomat, as the new UN Representative. He arrived on the sub-continent on June 30, 1951 in an atmosphere surcharged with suspicion and tension and with hostile demonstrations staged against him in Kashmir. While the Security Council resolution of March 30, 1951 intended completion of his mission in about three months time, he actually continued his efforts, with subsequent authorization from the Council, till March 27, 1953 when he presented his

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fifth report to the Council suggesting, like Sir Owen, the initiative to pass back to the two parties. His attempts foundered on the rock of conflicting views of India and Pakistan mainly in regard to the quantum and disposition of troops, and the induction into office of the plebiscite Administrator.

His earlier four reports (S/2375, 2443, 2611 and 2783) were submitted on October 15, 1951, December 18, 1951, April 22, 1952 and September 19, 1952.

Dr. Graham began his efforts by presenting on Septrember 7, 1951 his twelve proposals to the two Governments. Both Govenments readily accepted the first four proposals dealing with the affirmation of the parties' will to settle the Kashmir question through a plebiscite and not to resort to war-like propaganda or actual hostilities. Pakistan accepted, in addition, paragraphs 5,6, 8, 9, 11, and 12 of the proposal vide Liaquat Ali Khan's letter of September 12 1951. Disagreement arose in regard to the quantum and disposition of troops and induction into office of the Plebiscite Administrator. The meetings to resolve the differences on the points were continued between the parties and Dr. Graham in India and Pakistan and in Geneva, as well as at the U.N. Headquarters. Dr. Graham also revised his proposals on more than one occassion to narrow down differences but in vain. India wanted a minimum of 28,000 troops excluding State militia of 6,000 for reasons of Security on her side and would allow no more than 4,000 civil armed forces, 2,000 to be the followers of Azad Kashmir and armed, on the Pakistan side of the cease-fire line. India was prepared to reduce her force to 21,000 and allow minor variations on the Pakistan side. In regard to the Plebiscite Administrator, she felt, he should be inducted into office only after the demilitarization and shortly before the plebiscite. Pakistan, on the other hand, favoured a balance on both sides, suggesting a force of four battalions as sufficient. In case India wanted 28,000 troops, 25,000 would be needed on her side. In regard to the withdrawal of the bulk of India's forces, Pakistan contested India's figures of 130,000 Indian and 81,000 Pakistan forces being in the State on January 1, 1949 and held their number to be 81,000 and 61,000 respectively. She also wanted immediate induction into office of the Plebiscite Administrator.

Dr. Graham in his revised proposals of July 16, 1962 suggested 3,000—6,000 and 12000—18,000 as the number of troops on the Pakistan and Indian side of the cease-fire line excluding 3,500 Northern Scouts and 6.000 State Militia respectively. Later on September 2, 1952 at Geneva meeting of the two Governments (August 26—Septembe 10) he sugaested new figures of 6,000 and 18,000.

On September 4, he omitted the figures and introduced the principle that the forces allowed will be minimum needed for the maintenance of law and order with due regard to freedom of the plebiscite and the Security of the State on the Indian side, and with due regard to to the freedom of the poll on the Pakistan side, No agreement, however, could be reached and the Security Council by a resolution adopted on December 23, 1952, endorsed Dr. Graham's suggstions and urged the parties to reach agreement on the brackets of 3,000—6,000 for Pakistan and 12,000—18,000 for India, by that time the parties had agreed on all proposals excepting paragraphs 7 and 10.

Consequent upon the Security Council's resolution, negotiations were continued between the two Governments and Dr. Graham in New York

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and Geneva in January, and February 1953. Dr. Graham now suggested 21,000 troops for the Indian side. Pakistan considered it contravening the Security Council's resolution. India's contentions about the Plebiscite Administrator being inducted into office only after completion of the demilitarization process also remained unchanged. The U.N. Representative, thereupon, brought the meeting to an end and and reported his failure to the Security Council on March 27, 1953.

Stressing the need and value of early settlement of the Kashmir dispute for India and Pakistan and also the world, Graham said "Instead of the United Nations Representative continuing to report differences to the Security Council, may the leadership of our 400,000,000 people, with the goodwill and assistance of the United Nations, join in negotiating an agreement of Kashmir and thereby light a torch along the difficult path of the people's pilgrimage toward peace."

During the debate on Dr. Graham's second report in the Security, Council, the Russian delegate, Jacob Malik, on January 17 1952 made a virulent attack on the U. K. and U. S. A. charging them with inte-r ference in "internal affairs of Kashmir", and aggressive designs to convert it into a military base against the U. S. S. R.", exposed in their draft resolution of February 21, 1951 proposing a U. N. force for Kashmir. He opposed continuance of the Graham mission and charged the U. N. Representative with having acted unauthorizedly, possibly at the instance of Pentagon in seeking India and Pakistan's reaction to the proposed U. N. force, a provision deleted owing to India's objection.

Maintaining that the Anglo-U. S plans "attempt to substitute the right of self-determination with Anglo-American dictate", he criticized the Council, resolution of March 30, 1951, as restricting Kashmir's right of free expression through a democratically elected Constituent Assembly."

He supported the functioning of the State Assembly and said "In the opinion of the Soviet Government the Kashmir question can be successfully solved only by granting the Kashmir people opportunity themselves without outside interference, to decide the question of Kashmir. This could be done by "a Constituent Assembly elected in a democratic way."

The Soviet charges were categorically denied by the British and American spokesmen who characterized them "as cold-war propaganda, obviously to woo India."

Dr. Graham's Terms of Reference

Resolution of the Security Council of March 30, 1951

Having received and noted the report of Sir Own Dixon, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 14 March 1950 ;

Observing that the Governments of India and Pakistan have accepted the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948, and 5 January 1949, and

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have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations ;

Observing that on 27 October 1950, the General Council of the "All Jammu and Kashmir National Conference" adopted a resolution recommending the convening of a Constituent Assembly for the purpose of determining the "future shape and affiliations of the State of Jammu and Kashmir", observing further from statements of responsible authorities that action is proposed to convene such a Constituent Assembly and that the area from which such a Constituent Assembly would be elected is only a part of the whole territory of Jammu and Kashmir ;

Reminding the Governments and Authorities concerned of the principle embodied in the Security Council resolutions of 21 April 1948, 3 June 1948 and 14 March 1950 and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

Affirming that the convening of a Constituent Assembly as recommended by the General Council of the "All Jammu and Kashmir National Conference," and any action that the Assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the above principle ;

Declaring its belief that it is the duty of the Security Council in carrying out its primary responsibility for the maintenance of international peace and security to aid the parties to reach an amicable solution of the Kashmir dispute and that a prompt settlement of this dispute is of vital importance to the maintenance of international peace and security ;

Observing from Sir Owen's report that the main points of difference preventing agreement between the parties were :

(a) The procedure for and the extent of demilitarization of the State preparatory to the holding of a plebiscite, and ;

(b) The degree of control over the exercise of the functions of government in the State necessary to ensure a free and fair plebiscite ;

The Security Council

1. *Accepts* in compliance with his request, Sir Owen Dixon's resignation and expresses its gratitude to Sir Owen for the great ability and devotion with which he carried out his mission ;

2. *Decides* to appoint a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon ;

3. *Instructs* the United Nations Representative to proceed to the sub-continent and after consultation with the Government of India and Pakistan, to effect the demilitarization of the State of Jammu and Kashmir on the basis of the United Nations Commission for India and Pakistan

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resolution of 13 August 1948, and 5 January 1949.

4. *Calls upon* the parties to co-operate with the United Nations Representative to the fullest degree in effecting the demilitarization of the State of Jammu and Kashmir ;

5. *Instructs* the United Nations Representative to report to the Security Council within three months from the date of his arrival on the sub-continent. If, at the time of this report, he has not effected demilitarization in accordance with paragraph 3 above, or obtained the agreement of the parties to a plan for effecting such demilitarization, the United Nations Representative shall report to the Security Council those points of difference between the parties in regard to the interpretation and execution of the agreed resolutions of 13 August 1948, and 5 January 1949, which he considers must be resolved to enable such demilitarization to be carried out ;

6. *Calls upon* the parties, in the event of their discussions with the United Nations Representative failing, in his opinion, to result in full agreement, to accept arbitration upon all outstanding points of difference reported by the United Nations Representative in accordance with paragraph 5 above ; such arbitration to be carried out by an Arbitrator, or a panel of Arbitrators, to be appointed by the President of the International Court of Justice after consultation with the parties ;

7. *Decides* that the Military Observer group shall continue to supervise the cease-fire in the State ;

8. *Requests* the Government of India and Pakistan to ensure that their agreement regarding the cease-fire shall continue to be faithfully observed and *calls upon* them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement ;

9. *Requests* the Secretary-General to provide the United Nations Representative for India and Pakistan with such services and facilities as may be necessary in carrying out the terms of this resolution.

SECURITY COUNCIL RESOLUTION OF NOVEMBER 10, 1951

The Security Council

Having received and noted the report of Dr. Frank Graham, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 30 March 1951, and having heard Dr. Graham's address to the Council on 18 October ;

Noting with approval the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951, to the Prime Ministers of India and Pakistan ;

1. *Notes* with gratification the declared agreement of the two parties to those parts of Dr. Graham's proposals which re-affirm their determination to work for peaceful settlement, their will to observe the cease-fire agreement and their acceptance of the principle that the accession of the State of Jammu and Kashmir should be determined by a free and impartial plebiscite under the auspices of the United Nations ;

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2. *Instructs* the United Nations Representative to continue his efforts to obtain agreement of the parties on a plan for effecting the demilitarization of the State of Jammu and Kashmir,

3. *Calls upon* the parties to co-operate with the United Nations Representative to the fullest degree in his efforts to resolve the outstanding points of difference between them;

4. *Instructs* the United Nations Representative to report to the Security Conucil on his efforts together with his views concerning the problems confided to him, not later than six weeks after this resolution comes into effect.

RESOLUTION OF THE COUNCIL OF DECEMBER 23, 1952

The Security Council

RECALLING its resolution of 30 March 1951, 30 April 1951, and 10 November 1951 ;

FURTHER RECALLING the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948, and 5 January 1949, which were accepted by the Governments of India and Pakistan and which provided that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations ;

HAVING RECEIVED the Third Report dated 22 April 1952 and the Fourth Report dated 16 September 1952 of the United Nations Representative for India and Pakistan ;

ENDORSES the general principles on which the United Nations Representative has sought to bring about agreement between the Governments of India and Pakistan ;

NOTES with gratification that the United Nations Rrpresentative has reported that Governments of India and Pakistan have accepted all but two of the paragraphs of his twelve point proposals ;

NOTES that agreement on a plan of demilitarization of the State of Jammu and Kashmir has not been reached because the Governments of India and Pakistan have not agreed on the whole of paragraph 7 of the twelve point proposals ;

URGES the Governments of India and Pakistan to enter into immediate negotiations under the auspices of the United Nations Representative for India and Pakistan in order to reach agreement on the sepecific number of forces to remain on each side of the cease-fire line at the end of the period of demilitarization, this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the India side of the cease-fire line, as suggested by the United Nations Rrpresentative in his proposals of 16 July 1952 (Annex III of S/2783) such specific numbers to be arrived at bearing in mind the principles of criteria contained in paragraph 7 of the United Nations Representative's proposal of 4 September 1952 (Annex VIII of S/2783) ;

RECORDS its gratitude to the United Nations Representative for India and Pakistan for the great efforts which he has made to achieve a settlement and REQUESTS him to continue to make his services available

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to the Governments of India and Pakistan to this end.

REQUESTS the Governments of India and Pakistan to report to the Security Council not later than thirty days from the date of adoption of this resolution, and further REQUESTS the United Nations Representative for India and Pakistan to keep the Security Council informed of any progress.

———

Graham's Proposals of Septembr 7, 1951

The Governments of India and Pakistan

1. Reaffirm their determination not to resort to force and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir ;

2. Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens, organizations, publications and radio stations not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir ;

3. Reaffirm their will to observe the cease-fire effective from I January 1949 and the Karachi agreement of 27 July 1949 ;

4. Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations ;

5. Agree that subject to the provisions of paragraph II below the demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948, and 5 January 1949, shall be effected in a single, continuous process ;

6. Agree that this process of demilitarization shall be completed during a period of 90 days, unless another period is decided upon by the representatives of the Indian and Pakistan Governments referred to in paragraph 9 below.

7. Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be :

A. *On the Pakistan side of the cease-fire line* :

(i) the tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn ;

(ii) the Pakistan troops will have been withdrawn from the State, and

(iii) large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place.

B. *On the Indian side of the ceas-fire line* :

(i) the bulk of the Indian forces in the State will have been withdrawn ;

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(ii) further withdrawals or reductions, as the case may be, of the Indian and State Armed forces remaining in the State after the completion of the operation referred to in B (i) above will have been carried out;

so that at the end of the period referred to in paragraph 6 above there will remain on the present Pakistan side of the cease-fire line a force of..... *Civil Armed Forces, and on the Indian side of the cease-fire line a force of.....*.

8. Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;

9. Agree that representatives of the Indian and Pakistan Governments, assisted by their military advisers, will meet, under the auspices of the United Nations, to draw up a programme of demilitarization in accordance with the provisions of paragraphs 5, 6, 7 and 8 above;

10. Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

11. Agree that the completion of the programme of demilitarization referred to in paragraph 9 above will be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in paragraph 4 (a) and (b) of the 5 January 1949, resolution;

12. Agree that any differences regarding the programme of demilitarization contemplated in paragraph 9 above will be referred to the Military Adviser of the United Nations Representative and, if disagreement continues, to the United Nations Representative, whose decision shall be final.

REVISION OF PARAGRAPHS 6 AND 7 OF DR. GRAHAM'S PROPOSALS

(Recommended in his Second Report on December 18, 1951)

6. Agree that this process of demilitarizatoin shall be completed on 15 July 1952, unless another date is decided upon by the representatives of the Indian and Pakistan Governments referred to in paragraph 9;

7. Agree that the demilitarization shall be carried out in such a way that on the date referred to in paragraph 6 above the situation will be:

A. On the Pakistan side of the cease-fire line

(i) the tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;

(ii) the Pakistan troops will have been withdrawn from the State and

(iii) large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place.

*It is requested that the blank places be filled in by your Government,

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B. On the Indian side of the cease-fire line.

(i) the bulk of the Indian forces in the State will have withdrawn;

(ii) further withdrawals or reductions, as the case may be, of the Indian and State Armed Forces remaining in the State after the completion of the operation referred to in B (i) above will have been carried out;

So that on the date referred to in paragraph 6 above there will remain on each side of the cease-fire line the lowest possible number of armed forces existing on each side of the cease-fire line on 1 January 1949.

As Revised on July 16, 1952

7. *A. On the Pakistan side of the cease-fire line.*

(iii) large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place; so that at the end of the period of demilitarization there shall be an armed force of* (The United Nations Representative suggests, as a basis for discussion, figures ranging from 3,000 to 6,000).

(iv) the remaining Azad Kashmir forces will have been separated from administrative and operational control of the Pakistan High Command and will be officered by neutral and local officers under the surveillance of the United Nations.

B. On the Indian side of the cease-fire line.

(ii) further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after completion of the operation referred to in B (i) above will have been carried out so that at the end of the period of demilitarization there shall be an Indian Army force of* (The United Nations Representative suggests, as a basis for discussion, figures ranging from 12,000 to 18,000).

9. Agree that representatives of the Indian and Pakistan Governments, assisted by their military advisers, will meet, under the auspices of the United Nations, to draw up a programme of demilitarization in accordance with the provisions of paragraphs 5, 6, 7 and 8 above. The first meeting shall take place within eight days after the entrance into effect of this agreement.

11. Agree that:

(a) The determination of the final disposal of the remainder of the Indian and State armed forces left at the end of the period of demilitarization after the provisions of paragraph 7 have been fulfilled, and when the United Nations Representative is satisfied that peaceful conditions have been restored in the State. will be made by the United Nations Representative and the Plebiscite Administrator in consultation with the Government of India, with due regard to the security of the State and the freedom of the plebiscite,

(b) The determination of the final disposal of the remainder of Azad Kashmir forces left after provisions of paragraph 7 have been

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fulfilled will be made by the United Nations Representative and the Plebiscite Administrator in consultation with the local authorities.

ADDITIONAL CLAUSE

This Truce Agreement shall enter into effect upon its signature by representatives of the Governments.

As Revised on September 2, 1952

A. On the Pakistan side of the cease-fire line

(iii) large-scale disbanding and disarmament of the Azad Kashmir forces will have taken place ; so that at the end of the period of demilitarization there shall be an armed force of 6,000 ; (clause (iv) of July 16 revision was omitted)

B. On the Indian side of the cease-fire line.

(ii) further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in B(i) above will have been carried out ; so that at the end of the period of demilitarization there shall be an Indian Army force of 18,000 including State armed forces.

9. Agree that pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. The local authorities shall undertake the fulfilment of such duties as are necessary for the observance within that territory of the provisions of the Karachi Agreement of 27 July 1948 ;

11. Agree that the completion of the programme of demilitarization referred to in the provisional clause below will be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in paragraph 4 (a) and (b) of the 5 January 1949 resolution ;

PROVISIONAL CLAUSE

The agreement shall enter into effect when the Governments of India and Pakistan have approved a programme of demilitarization in conformity with paragraph 5, 6, 7, and 8 above, the draft of such programme to be drawn up in meetings between the representatives of the Governments of India and Pakistan assisted by their Military Advisers under the auspices of the United Nations. The first meeting shall take place within two weeks after the signature of the above agreement.

As Revised on September 4 1952

5. Agree that demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948 and 5 January 1949 as set forth in paragraph 7 below shall be effected in a single, continuous process ;

A. On the Pakistan side of the cease-fire line :

(iii) large-scale disbanding and disarmament of the Azad Kashmir forces will have taken place, so that at the end of the period of demilitarization there shall be the minimum number of

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forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the freedom of the plebiscite.

B. *On the Indian side of the cease-fire line* :

(ii) further withdrawals or reductions, as the case may be, of the Indian and State Armed forces remaining in the State after the completion of the operation referred to in B (i) above will have been carried out ; so that at the end of the period of demilitarization there shall be the minimum number of Indian forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the security of the State and freedom of the plebiscite.

9. Delete the second sentence after "United Nations".

11. Agree that arrangements for the plebiscite shall be completed after the United Nations Representative declares that he is satisfied that peaceful conditions have been restored in the State.

As Revised on Febuary, 14, 1953

A. *On the Pakistan side of the cease fire line*

(iii) Add after "shall" in line 3 "remain an Armed force of 6,000. This force will have been separated from the administrative and operational command of the Pakistan High Command in accordance with paragraph 9. It will have no armour or artillery."

B. *On the Indian side of the cease-fire line*

(iii) Add after "be" in line 5 "an Indian army force of 21,000 including State armed forces. This force will be without armour or artillery."

9. Agree that pending a final solution the territory evacuated by Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. Effect shall be given to this by the time the process of demilitarization referred to in paragraph 6 has been completed on both sides of the cease-fire line ;

Note—Paras 11 and 12 were the same as of September 7, 1959 save for "the provisional clause" replacing "paragraph 9 above" in the 2nd line of each. Pakistan rejected Para 7 and India Paras 7, 9 and 11.

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Section XII

The Driect Negotiations

The Commonwealth Premiers' Conference in London in June 1953 provided an opportunity for informal discussions between the Prime Ministers of India and Pakistan on the Kashmir issue in pursuance of Dr. Graham's suggestion for direct talks. Earlier, the new Pakistan Premier, Mohammed Ali, who took over on April 17, 1953, and Nehru had publicly expressed sentiments for early settlement of their outstanding disputes.

Formal Nehru-Ali talks were held in Karachi on July 25-27. A communique issued on July 28, declared that the two Prime Ministers were agreed that early resolution of their disputes was "essential to progress in both countries" and expressed the hope that the Pakistan Prime Minister would visit New Delhi in the near future to continue these talks". The New Delhi meeting accordingly took place on August 17-20, at the end of which a joint Press communiquc disclosed the Prime Ministers' firm opinion that the Kashmir issue "should be settled in accordance with the wishes of the people of that State with a view to promoting their well-being and causing the least disturbance to the life of the people of the State", and that "the Plebiscite Administrator should be appointed by the end of April 1954". Experts committees were to be set up to clear "up the preliminary issues"

The New Delhi meeting took place against the background of mass upheavels in the State of Jammu and Kashmir and protests in Pakistan following the dismissal and detention on August 9, 1953 of the State Premier, Sheikh Mohd. Abdullah, by Sadar-i-Riyasat for having "forfeited the confidence of his Cabinet and having declined to call the State Cabinet despite the Sadar-i-Riyasat's suggestion. The new Premier, Bakshi Ghulam Mohd. and his colleague, Sadiq, further alleged that Abdullah conspired with foreign powers to carve out an independent State of his own. No grounds of detention were, however, supplied to Abdullah. The joint communique helped ease tension in Kashmir and Pakistan.

Before his detention a high-level committee of the National Conference worked out various alternative solutions of Kasamir dispute and submitted them to Prime Miuister Nehru in July. Sheikh Abdullah in a letter to Maulana Azad also complained about increasing encroachment on State subjects by the Centre.

The direct negotiations continued till September 21, 1954 when the Pakistan Prime Minister told Nehru that his attitude had left no chance for settlement and that the "case must revert to the Security Council"

On October 1, 1954, India and Pakistan issued a "White Paper" on Kashmir giving full text of the twenty-two letters, two telegrams, a message, and an Aide-Memoire that passed between Nehru and Mr. Mohd Ali.

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The main reason for the failure of the negotiations was change in Nehru's attitude following the U. S. military aid to Pakistan. He held that this had'' changed the entire context of the problem'' and that the question now was "not of demilitarization but of militarization".

The earlier proposal about troops no longer held good. India had now to keep a much larger force in Kashmir for reasons of defence. Mohammed Ali tried, in vain, to explain that the U. S. military aid to Pakistan could have no bearing on the question of Kashmir. Demilitarization of the State was to ensure the freedom of the poll and could have no relation to the strength of armed forces of India and Pakistan outside Kashmir. He also explained Pakistan's stand on Nehru's No-War declaration proposal saying that it should include a guarantee for the two parties to abide by the award of an arbitrator should negotiations and mediation fail. President Eisenhower's assurance that the U. S. aid could not be utilized for aggressive purposes also failed to carry convicition with Nehru or effect any change in his attitude. Mohammed Ali characterized these as "extraneous considerations blocking chances of settlement.

The talks revealed that Nehru wanted Admiral Nimitiz replaced as the Plebiscite Administrator by someone from the neutral nations to keep the Kashmir issue out of cold-war politics. Pakistan, while having full faith in the "integrity and impartiality'' of Admiral Nimitz, later agreed to the proposal to facilitate settlement. Nehru further wanted the result of overall plebiscite to be considered by the two Prime Ministers for final decision so that it should cause "the least disturbance and should take into consideration geographical, economic and other important factors'' and considered it an "impossibility'' to provide for refugees (numbering about 500,000, according to Pakistan) participating in the poll· Pakistan opposed this regional allocation without even prior definition of the various regions, as contrary to their international agreement. She also firmly stood by the inalienable right of the refugees to vote for their areas The Experts committees also did little work.

Besides, a virulent public campaign against military aid to Pakistan was organized in India by the Congress headed by Nehru. The Kashmir Premier, after consultations with Nehru, also adopted a bellicose tone and declared early in 1954 that the April Pakistan was dreaming of would never come and that the State Constituent Assembly would formally ratify Kashmir's "irrevocable'' accession on February 3. Mohd. Ali protested against this "mockery of our joint decisions'' and urged Nehru to repudiate the Assembly's action. Nehru while reaffirming India's stand by plebiscite, declined any action in the matter.

SHEIKH'S LETTER TO MAULANA AZAD

Text of letter from Sheikh Abdullah to Maulana A.K. Azad, Education Minister India.

Srinagar,
July 16, 1953

Respected Maulana Sahib,

Your letter of July 9, reached me yesterday. It appears certain mis-

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understanding has arisen in regard to the matters raised by me in my letter to Pandit ji. There are two aspects of the problem of our State : one concerns the relationship arising out of the signing of the Instrument of Accession and the other is related to settlement between India, Pakistan and people of the State of the dispute about the future of the State. These two aspects may be called the internal and external aspects of the Kashmir problem. It appears no distinction is drawn between these two aspects in discussions about the dispute.

As is well known to you, the present relationship of the State is based on the document of Instrument of Accession. We, the people of Kashmir, regard the promises and assurances of the representatives of the Government of India, such as Lord Mountbatten and Sardar Patel, as surety for the assistance rendered by us in securing the signatures of Maharaja of Kashmir on the Instrument of Accession, which made it clear, that the internal autonomy and sovereignty of the Acceding States shall be main-except in tained regard to three subjects which will be under the Central Government.

I mention here in this connection the clear assurances given by Sardar Patel to Indian States on July 5, 1947. He observed : "We do not want anything more from them than accession in these three sujects, therein lies the good of the entire country. We respect their independence in all other matters".

At that time it clearly appeared that even handing over to the Centre of Defence, Communications and External Affairs implied no financial bability on the States. You would recall that Lord Mountbatten declared at the time of independence in 1947 that "Instrument of Accession enables Indian States to accede to either of two Dominions without financial bability Moreover, it is clearly stated in one of its clauses that the Central Government has no power under any circumstance to interfere with the internal autonomy and sovereignty of the Indian States."

Mr. V. P. Menon, whose opinion is considered quite authoritative in respect of Indian States, observes 'Accession involves no financial obligation on the States. There is no intention to usurp their internal autonomy nor will they be forced to accept the Central Constitution.'

It is regrettable that despite these clear declarations about these matters, Government of India has tried several times to impose financial obligations on this State. This action of theirs is in clear violation of the assurances given by its responsible representatives. The State acquired such a status as a result of concessions allowed under its Instrument of Accession to India. When the Constituent Assembly of India proceeded to frame the Union Constitution there arose before it the question of the future position of the State. Our representatives took part in the last sessions of the Assembly and presented their point of view in the light of basic principles on which the National Conference had supported State's accession to India. Our view-point draw appreciation and Article 370 of the Constitution came into being determining our position under the new Constitution. S. Patel again reiterated his assurances : "In view of the special problems confronting Kashmir we have enacted a special provision to continue the existing relationship between the Union and this State."

As time elapsed, it began to become clear that this special position

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was conceded with certain reservations and there arose objections against this 'special treatment'. It is important to note here that responsible representatives of the Government of India themselves gave rise to many doubts by terming this position as provisional, and the ensuing events confirmed us in our belief that the relationship between India and Kashmir arising out of the document of Instrument of Accession was not final. Even the Government of India entertained doubts about this position. During the debate on this important issue in the Constituent Assembly it emerged that apart from the limitations imposed by the Instrument of Accession the very relationship between India and Kashmir entailed certain responsibilities and many letters were exchanged to secure one's position resulting in Delhi Agreements.

I hope you are not unaware of the fact that even after Delhi Agreement responsible spokesmen of the Government of India declared that their ultimate objective was to secure complete merger of State with India and that they waited for appropriate time and conditions to bring that about. These statements reveal that Delhi Agreements could not provide a basis to finalise relationship between India and Kashmir; but that they provided temporary arrangements to finalise accession. The only difference between the Government of India and different elements in the country on the issue is whether to bring about the merger of the State with India now or after some time. This sums up the relationship between Kashmir and India. It should not be forgotten that this is a temporary or provisional relationship as the contending parties have yet to settle the future of the State according to the wishes of the people. This temporary relationship—which we had hoped would strengthen our position—gradually underwent a change with restrictions imposed upon the majority community in the State. The finalisation of this relationship between India and Kashmir caused concern among the people here and have given rise to doubts and fears in their mind. I am very happy to hear from you that the Government of India is willing to declare that the special position given to Kashmir will be made permanent and that the Government of India will be bound by it without any conditions. If such a declaration had been made at an appropriate time, it would undoubtedly have strengthened our hands and unified various organisations and public opinion in the State and even if the masses had been asked about accession, a majority of them would have come out in favour of India. But unfortunately that was not to be. And the changes effected on several occasions in relationship between India and Kashmir greatly agitated the public opinion and also weakened our hands to a great extent. Although such a declaration would be welcome, it remains to be seen if it would draw the support of different sections of people in India and parties in Kashmir. You would appreciate that without such support, this declaration would not suffice to dispel the fears that have arisen in the minds of people of Kashmir. A big party in India still forcefully demands merger of the State with India. In the State itself Praja Parishad is threatening to resort to direct action if the demand for State's complete merger with India is not conceded. I do not understand how in the face of this stiff opposition, your proposed declaration would be able to reconcile different points of-view-that have arisen concerning the issue of Indo-Kashmir relationship. Assuming such an agreed solution to be possible, it is still to be seen if the resultant benefits would accrue

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equally and fairly to all sections of people in the State.

In my letter of July 4 (a copy of which was sent by me to you also) I made it clear to Panditji that a majority of people in the State feel that they have been completely ignored even in respect of matters which have passed under the control of Central Government. We will have to settle their future administration without loss of time in a practical way Naturally only that solution will be satisfactory which is honourable and acceptable to all parties concerned. Today the contending parties are, between themselves and internationally, committed to the principle of free and impartial plebiscite. Mixed populace would naturally give rise to many difficulties and real problems. We have carefully weighed the various pros and cons and have reached certain conclusions after careful deliberation over these matters Bakshi Sahib and Beg Sahib have been directed to convey these decisions to you. It is now up to you and your colleagues seriously to examine them and decide if they lead to fair solution of the problem. If you do not consider these proposals practicable, then you should put forth your own proposal keeping in view the importance of internal and external aspects of the matter. No doubt we have had close and intimate relations between us for a long time and you and I both have high regards for them, but when we have to decide issues of national importance, regard for our mutual friendship should not be allowed to come in the way of their dispassionate consideration and discussion. I respect your views but wish at the same time that you appreciate my difficulties. I can be a friend and loyal, as a responsible representative of people, if I keep to the fore the interests of people whose trust and confidence I enjoy. If I fail to gain the confidence of the people here I will not be able to render any service to my friends. I hope you will appreciate my posision and accept my real veiws after careful deliberation.

*Panditji refere to Mr. Nehru

Sincerely Yours,
Sheikh Mohd Abdullah

———

ALTERNATIVE SOLUTIONS OF KASHMIR PROBLEM

An extract from Mr. Afzal Beg's statement in Court.

"The Working Committee reviewed the situation with much anxious thought and consideration for over twelve days. It considered it imperative to explore all possible alternatives for the settlement of Kashmir dispute. Accordingly, it issued a mandate to an eight-man committee to explore such alternatives for settlement. The following were the Members charged with this duty :—

(1) Sheikh Mohammed Abdullah.
(2) Maulana Mohammed Sayeed Masuodi.
(3) Bakshi Ghulam Mohammed.
(4) Sardar Budh Singh.
(5) Mr. G.M. Sadiq.
(6) Pandit G.L. Dogra.
(7) Pandit Sham Lal Saraf.
and (8) Mirza Mohammed Afzal Beg.

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Alternative Solutions Proposed

Pandit Jawahar Lal Nehru who had come to Kashmir in May 1953, when the Working Committee was in session, was informed about the deliberation of the Committee. In June the eight-man Committee thoroughly scrutinised various suggestions made from time to time about the settlement of the accession dispute of the State. After anxious thought and careful examination, the Committee came to the conclusion that the following were the feasible solutions of the problem :—

(a) Overall plebiscite for the whole State to decide whether the State would accede to India, or Pakistan, or remain independent ;

(b) Independence for the whole State :

(c) Independence of the whole State with joint control of foreign affairs and defence.

(d) Dixon Plan with independence for the plebiscite area.

Though the United Nations resolutions confined the choice of accession through plebiscite only to India and Pakistan, Maulana Mohd. Sayeed suggested the third alternative of independence which was unanimously adopted.

Mr. Sadiq gave a qualified support to the plebiscite proposal. He took a somewhat dubious stand. He agreed to the plebiscite only if it could be held under the joint auspices of the five neighbouring countries, *i.e.*, Soviet Russia, Communist China, Afghanistan, India and Pakistan. He further qualified his stand and added that such a plebiscite was not possible under the present circumstances. Accordingly, he had no alternative to the present *status quo*. With this exception, if indeed, it was an exception, the eight-man Committee was unanimous in proposing the above alternatives. Bakshi Ghulam Mohammed insisted that the fourth alternative set out above should have the first priority in consideration, as according to him that was the only honourable and practical solution of the dispute.

55. In June 1953, Maulana Abul Kalam Azad, the Union Minister, visited Kashmir and he was apprised of the developments mentioned above. Early in July, 1953, Pandit Jawahar Lal Nehru was informed about those decisions. He was then shortly going to have a conference in Delhi with the Prime Minister of Pakistan to discuss and find out an early solution of the Kashmir question. In his talks with us, however, he disapproved of the independence idea."

—o—

Pakistan Demand For Clarification of Regional Plebiscite

Letter, dated August 27, 1953, from the Prime Minister of Pakistan to the Prime Minister of India

My dear Pandit Nehru,

During our recent discussions in New Delhi you put forward the following proposals :—

(i) Instead of the agreed solution of a free and impartial plebiscite to determine whether the entire State of Jammu and

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Kashmir is to accede to India or Pakistan we should now agree upon a regional plebiscite.

(ii) In place of Admiral Chester W. Nimitz who was nominated as Plebiscite Administrator in March 1949 with the agreement of the Governments of India and Pakistan, we should now select a Plebiscite Administrator from one of the smaller States.

I undertook to give you the reactions of my Government after consultation with my colleagues.

2. The idea of a regional plebiscite without a definition of regions is not concrete enough for the expression of a definite view for or against it. I hope, therefore, that you will soon send me your idea of the basis on which the State is to be divided into regions for the purpose of the plebiscite and what the boundaries of each region will be. Another point on which it is necessary to be clear at this stage relates to refugees. I take it that citizens of the State who have been displaced from their homes will be entitled to have their votes recorded for the region of their origin and that outsiders who may be residing in the State will not be entitled to vote at all.

3. For the present I shall confine myself to some observations of a general character which are, however, of great importance in considering the proposal for a regional plebiscite.

4. As I understand this proposal, it betokens a fundamentally new approach to the problem of Kashmir. The present international agreement on Kashmir which is based on an overall plebiscite was worked out with the assistance of the United Nations four years ago but in spite of repeated efforts it is as far from implementation as ever. It was a compromise hammered out of conflicting claims in an atmosphere of suspicion. mistrust and mutual recrimination. Some of its provisions would militate against the unfettered expression of the will of the people of Jammu and Kashmir. Happily that atmosphere no longer exists and we are now agreed that the wishes of the people of the State should be the overriding consideration in the settlement of the Kashmir question. It is essential, therefore, to approach the problem with a fresh outlook born of present feelings of trust, cordiality and friendliness between India and Pakistan. The people of the State in its various parts should also share in this trust and friendliness. Above all, they must be made to realise that their vote is absolutely free and uninfluenced by any fear or pressure.

5. The most potent sources of fear and pressure both visible and invisible are partisan administrations and the presence of the troops of one country to the exclusion of the other. The conditions for a truly free and impartial plebiscite are :—

(i) Supervision over the administration during the plebiscite period should be in the hands of an impartial authority or a joint Indo-Pakistan Commission.

(ii) Exclusion of troops of either country from the plebiscite area or the presence of a joint force.

(iii) The Plebiscite Administrator should have all the powers he

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considers necessary for organising and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite including the power to secure compliance with any instructions he might give to the Civil and Military authorities in the State in carrying out his functions.

6. The freedom and impartiality of the plebiscite assumes special importance in the case of a regional plebiscite. Certain factors which in an overall plebiscite would not perhaps materially affect the result might be of decisive moment in the plebiscite of a region. In a regional plebiscite it would be necessary to take much more stringent precautions to ensure the freedom of vote. Furthermore, a regional plebiscite necessarily implies the break-up of the State. In such a scheme, questions of legal and constitutional rights of a single authority in the State would be wholly out of place. If the idea of a regional plebiscite is to be pursued, modifications of the nature indicated above would be necessary in the existing agreement which is based on an overall plebiscite.

7. As regards the Plebiscite Administrator, Admiral Nimitz was nominated by the Secretary-General of the United Nations in March 1949 with the agreement of the Governments of India and Pakistan. He possesses in an eminent degree the qualifications required of a Plebiscite Administrator that he should be "a personality of high international standing and commanding general confidence". His impartiality is beyond question and in his capacity as Plebiscite Administrator he will be acting on behalf of the United Nations and not on behalf of any particular country. Nor will his replacement be an easy matter since persons of high international standing and commanding general confidence are not readily available, and even if available may not perhaps be willing to risk the treatment that would have been meted out to Admiral Nimitz if we were now to drop him. You know the high regard in which I hold your views but I venture to suggest that we both give this matter further thought.

8. I trust that the views I have set out above will receive your earnest consideration. I am most anxious, as I am sure you are, to ensure that the Kashmir dispute is settled at an early date in a just and fair manner, and these views are offered solely with a view to help achieve that common objective. On receiving a reply from you it may be necessary for us to meet soon to carry our discussion of these issues forward to a happy and satisfactory conclusion.

Yours sincerely,
MOHAMMED ALI

Nehru Denies Proposal

Letter, dated September 3, 1953, from the Prime Minister of India to the Prime Minister of Pakistan

My dear Prime Minister,

I received your letter of the 27th August on August 28. That same day I sent you a reply. This reply did not deal with some of the matters

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you have discussed in your letter. I was anxious, however, to point out to you my concern and distress at certain developments which had taken place in Pakistan since we met in Delhi and issued our joint statement. The structure of friendly approach and confidence which you and I have sought to build up with much labour was being undermined. The atmosphere of goodwill, that is so essential for any real progress towards a settlement, was being vitiated by Press attacks and public statements in Pakistan. In our joint statement, we had laid the greatest stress on the necessity of everyone, both in India and Pakistan, striving to produce this atmosphere of a friendly approach and to avoid by word or deed anything that might vitiate it and thus come in the way of a satisfactory settlement. That was the basic approach, and yet this very thing that we considered so essential and to which we attached the greatest importance was suddenly repudiated and denied. If the foundation goes, how will the super-structure survive ?

2. I wrote to you immediately because my mind was full of this difficulty and I wanted you to appreciate how we were feeling. I did not follow up that first reply of mine immediately partly because I have been heavily occupied. But the real reason was that I was trying to come to grips with something which eluded me. The more I read your letter, the more I felt that it bore little relation to our talks or to the statement we had issued. It was something independent of them and something which raised some issues discussed and disposed of long ago. Instead, therefore, of our going ahead, as I thought we had done when we met, we seem to be going backwards.

3. It is easy for me to write to you at length, quoting chapter and page about previous discussions on these issues, but it will serve little purpose to get entangled in these controversies which yielded little fruit in the past. It was because of this that I wondered how I was to deal with these issues that you had raised in your letter and which bore so little relation to what we had talked. Even more than this, I wondered how in this atmosphere of threat and denunciation in Pakistan, we could ever come to a friendly settlement.

4. You refer in your letter to the past atmosphere of suspicions, mistrust and mutual recrimination, and add that "happily that atmosphere no longer exists." "It is essential", you say, "to approach the problem with a fresh outlook born of present feelings of trust, cordiality and friendship between India and Pakistan." That was my hope, but I would ask you, is this atmosphere and are those feelings of trust, cordiality, friendliness evident in the Press or in the public statements of Pakistan today ? How then are we to get over this basic and initial difficulty ?

5. A tremendous deal of fuss has been made about Admiral Nimitz being made the Plebiscite Administrator. I have already written to you about this matter. I thought you agreed completely with me at the time. Since Admiral Nimitz was appointed, with our consent, four and a half years have passed, and, quite apart from Kashmir, the world situation has developed greatly. A war has been fought with disastrous consequences in Korea. There is, fortunately, an armistice in Korea now, but, only recently, we saw an unedifying sight in the Political Committee of the United Nations. We saw conflicts between the Great Powers, even

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among those who were closely allied to one another. Those conflicts were a reflection of deeper and vaster conflicts which imperil the peace of the world and trouble mankind.

6. We in India have taken up a clear and definite attitude in regard to world affairs. We have consistently refused to entangle ourselves in these conflicts or to align our country with one power bloc or another. For any great nation, however much we might respect it, to be brought into the Kashmir picture, would be to make Kashmir a part of this world conflict arousing rivalries between Great Powers. That would lead to further entanglement and difficulty. That might well confuse the issues still further. If Kashmir becomes also an arena of conflict between the Great Powers, then not only India and Pakistan, but also the people of Kashmir play a secondary part.

7. It was for this major reason, and not from any ill-will for the United States or for Admiral Nimitz, that we suggested the salutary rule that the Plebiscite Administrator should be chosen from some small and more or less neutral country of Asia or Europe. There are many such countries and there should be no difficulty in finding an eminent and impartial person from among them. I feel sure that, in these circumstances, the Government of the United States, as well as Admiral Nimitz himself, would have appreciated our viewpoint. Indeed, I thought that the appointment of Admiral Nimitz was practically terminated long ago and the matter had anyhow to be approached afresh in the new circumstances of today. This could have been done quite easily without affront to anyone ; but the surprising agitation in Pakistan over this issue has made it a major one and needlessly created difficulties. For us, it is not merely a question of Kashmir, but of our major world policy to which we have adhered to the best of our ability, during these troubled years. For us to agree now to what you have suggested in your letter is, to some extent, to deviate from that world policy of non-alignment. You and your colleagues will, I hope, appreciate my argument and realise that it is impossible for us to take any step which endangers that larger policy, apart from bringing about other consequence which we consider undesirable.

8. As I write this letter, I am informed that Admiral Nimitz has formally submitted his resignation to the Secretary-General of the U. N. The question of his continuing does not, therefore, arise. But I have, nevertheless, dealt with this matter fully so as to explain our position to you.

9. In your letter of August 27, you state that I put forward two proposals, one dealing with regional plebiscite and the other with the nomination of a Plebiscite Abministrator. I have dealt with the second point above. As for the other, I did not put forward any proposal that "we should now agree upon a regional plebiscite". What I said in this connection was different.

10. I laid great stress on our finding a solution which would cause the least distrubance to the life of the people of the State. We have mentioned this in our joint statement. In discussing this matter with you informally, I pointed out that we must avoid anything that results in unfortunate migrations from, or other disturbances within, the State. Indeed, you will remember that it was at my insistence that the world 'entire' was

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added before 'State' at the end of the paragraph 3 of our statement, where it is said that there should be "a fair and impartial plebiscite in the entire State". What I suggested was that as a result of the plebiscite over the entire State, we would be in a position to consider the matter, so that the final decision should cause the least disturbance and should take into consideration geographical, economic and other important factors, Indeed, any attempt at defining regions rather prejudges the result of the voting. In any event, all these are matters to be considered at a much later stage.

11. You refer in paragraph 2 of our letter to the new approach and a fresh outlook, but then you go on to suggest certain modifications which, according to you, would be necessary in the existing agreement. I do not quite know which agreement you refer to, unless it is our joint statement which does not deal with these problems at all. The particular points you refer to are, as a matter of fact, not new at all ; they are very old and rather stale. They were discussed four or five years ago repeatedly and, in regard to a number of them, definite decisions were arrived at by the U. N. Commission with our joint consent. We have proceeded largely on the basis of those decisions though, undoubtedly, to some extent a variation might have to be made because of the passage of time and other developments.

12. Your point (1) in paragraph 5 refers to the administration of the State and suggests that this should be in the hands of an impartial authority or a joint Indo-Pakistan Commission. We have made it clear in the past, and our contention has been accepted by the U.N. Commission, that there can be no such change in the administration of the State. Indeed, the Resolution of the United Nations Commission is based on the recognition of the *de jure* authority of the State Administration over even the areas now occupied by Pakistan, and the constitutional right of the Government of India to safeguard the security of the State. There can be no question whatever of Pakistan or any outside authority sharing, in any way, in the administration of the State. The whole basis of the U. N. approach in its Resolutions, and subsequently through Dr. Graham, has been the recognition that there is a difference between the status of the two countries in this and other matters. Because of this recognition of the authority of the Government of the Jammu and Kashmir State, the Plebiscite Administrator was to be formally appointed by that State, and was to act as an officer of that State. It is admitted, of course, that he would be chosen with the consent of the parties concerned.

13. It is the Government of Jammu and Kashmir State that is recognised throughout ; there is no recognition anywhere at any time of any Government in the areas of Kashmir State occupied by Pakistan forces. Even in regard to the withdrawal of troops, there was to be, according to the U. N. Commission's Resolution, a complete withdrawal of Pakistan troops from all areas of the State occupied by them, while Indian forces were to remain, though in reduced strength. The right and responsibility of the Government of India to maintain a certain minimum number of troops, such as might be required for the security of the State, have throughout been recognised.

14. At one time a proposal was vaguely put forward that some foreign troops, belonging to another country, might be brought into the

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State. We made it perfectly clear then that we could never accept the intrusion of foreign troops in the Kashmir State or anywhere else in Indian territory. That proposal was not pressed and was given up.

15. I have dealt above with your point (2) in paragraph 5 which relates to the exclusion of troops of either country from the Plebiscite area or the presence of a joint force. Both these suggestions have been dismissed in the past. There has been an argument, however, more especially during the past two years or more, as to the quantum and quality of forces to be kept prior to the plebiscite. Unfortunately, we did not come to an agreement over this issue, in spite of Dr. Graham's efforts. That is a matter which has to be decided. Indeed, that is the principal matter which you and I have to consider and decide as one of the preliminary conditions which have to be satisfied before the appointment and induction of the Plebiscite Administrator.

16. Your point (3) in paragraph 5 relates to the powers of the Plebiscite Administrator. To some extent, this overlaps point No. (1). It is clear that we should ensure a fair and impartial plebiscite and that the Plebiscite Administrator should be in a position to organise such a plebiscite. That has nothing to do with the normal functioning of Government. It has certainly something to do with the non-interference of the Government in the plebiscite. These are matters to be discussed and arranged.

17. You refer in paragraph 2 of your letter to the refugees being allowed to vote and to outsiders residing in the State not being allowed to vote. Outsiders, who are presumably not permanent residents of the State will, I take it, not vote. As for refugees voting, I referred to this in the course of our talks, and I pointed out the extraordinary difficulties that we would have to face if we tried to give facilities for such voting. There would have to be a most careful check-up of all such persons, detailed enquiries as to whether they were permanent residents of Kashmir or not, where they came from and the circumstances in which they left the State, a certification of their identity, etc. There would be the problem of settling these refugees as also of unsettling settled refugees and resettling them elsewhere. I should like you to picture to yourself how all this can be done and how long it will take. It would result in an indefinite prolongation by years of the period preparatory to the plebiscite. It would also mean a very considerable disturbance to the life of the people of the State, which we wish to avoid. Therefore, for the most practical of reasons, this course does not appear feasible.

18. I think that I have dealt with all the points raised in your letter. Some of them. as I have endeavoured to point out, do not arise at all ; some others were disposed of long ago ; some others still have to be disposed of at a later stage. There are few preliminary issues to be decided in the near future before the Plebiscite Administrator comes in. To that we can address ourselves. It was with this purpose in view that we suggested in our joint statement that committees of military and other experts should be appointed to advise the Prime Ministers.

19. While I have dealt with the points you have raised in your letter, my mind has been full of the background of this unfortunate conflict and more particularly with the present atmosphere of Pakistan in

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this respect. I hope you will appreciate that it is not an easy matter to talk calmly or to discuss dispassionately any question when threats of war and jehad are held out and there is daily denunciation of India. Take even one matter which has often been discussed, the question of our reducing our troops in Kashmir. We have often expressed our readiness to reduce them to the barest minimum necessary from the point of view of the security of the State. In doing so, we are prepared to take considerable risks and you will remember that there is a large frontier to be guarded on all sides. Do you think that any responsible Government can afford to take the major risk of withdrawing its troops when there is this talk of war and invasion? It is, therefore, absolutely necessary, and a pre-requisite for any other progress, that this atmosphere must change and the appeal that you and I made in paragraph 6 of our joint statement should be given effect to.

20. I should like to make it clear that there is no intention on my part to exclude the U. N. from this question of Kashmir. The Plebiscite Administrator would function under U. N. supervision, but it seems to me quite obvious that while the U. N. can be helpful, any settlement must depend upon the consent and co-operation of India and Pakistan. Therefore, it is for us to agree and not to look to the U. N. to produce some settlement, without our agreement.

21. I have been drawn, rather unwillingly, in a discussion of some controversial matters. This entire question of Kashmir bristles with controversy. Indeed, but for this, it might have been settled long ago I realise, however, that it is not by a controversial or legalistic approach that this question can be effectively handled or settled. I have, therefore, wrestled with this problem in an attempt to deal with it in a more co-operative way. That was the virtue in our talks and in the statement that we issued. It is quite easy to pick holes in that statement or to say that it does not take us very far. But the fact remains that this was the first successful attempt to get out of the morass in which we have been stuck for a long time and that it did take us some distance. These were no small gains.

22. We are not going to settle this problem by mere cleverness or trying to overreach each other. We are also not going to settle it by coercive processes, whether they are of the nature of war or some other. Nor can it be settled by coercion exercised on the people of Kashmir or any large section thereof. It was with this in mind that I laid stress on the significant phrase in our joint statement that in any solution we must avoid disturbance to the life of the people of the State. The problem before us is, how to succed within these limitations.

23. I should like that you and I should consider this quite frankly and without any inhibition. I know that is difficult for both of us, situated as we are. And yet, the responsibility that we shoulder demands that we do so and that we should not allow ourselves to accept a position which might offer some temporary relief today but which might result in sowing the seeds of future trouble and conflict. History gives us examples of conflict between nations continuing for generations over some intermediate territory. Wars have sometimes made a temporary difference but not solved the problem. If we aim, as we must, at closer and co-operative relationship between India and Pakistan, we must find a solution of the

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Kashmir problem which is not only satisfactory to the people as a whole there, but is also achieved without bitterness and a sense of continuing wrong to India or Pakistan. While the interests of the people of Kashmir are paramount. there are also certain national interests of India and Pakistan which come into conflict over this Kashmir affair. It also happens that a very great deal depends not only on the solution of the problem, but perhaps even more so on the manner of doing it, because that manner will have far-reaching consequences both in India and Pakistan in the present and the future. You will understand what I mean. The large minorities in India and Pakistan will be affected by that solution. If it is wrongly done, then the position of these minorities might well suffer and new problems be created, even bigger than the one of Kashmir. We must, at all cost, avoid this. To ignore it in our extreme desire to show some quick result in Kashmir is bankruptcy of statemanship. To submit to the momentary passion of an excited populace and take a wrong course is not leadership.

24. We have to look at current events in some historical perspective. In this perspective, our huge continent of Asia appears to awaken after 300 years of quiescence. The inevitable destiny of India and Pakistan must be to co-operate, as independent nations, to their mutual advantage and for the good of Asia and the world. If that is the objective, then we must move wisely and warily and not take any step which is in the wrong direction. Every step in the right direction, however small it may be, helps and produces that atmosphere out of which right action comes. It is for this reason that I have suggested that we should proceed to consider and solve all our problems. Obviously, the Kashmir problem is of high importance ; in some ways the most important problem before us, and we must tackle it. But it appears to me important that the other matters, which are by no means unimportant and which affect large numbers of people should also go ahead. But above all, in whatever we may do, let us keep this large objective in view and think of the perspective of history. For my part, I am determined to try my utmost to seek satisfactory solutions which will lead to friendship and co-operation between the nations, and I shall not permit myself to be diverted from this aim even by untoward occurrences.

25. You suggest in your letter that we might meet again soon to carry on our discussions. I would be happy to meet you at any time, but I see no purpose in our meeting frequently without adequate preparation or our meeting in an atmosphere of excitement and denouncement. The ground must be prepared first before we can profit by a meeting.

Yours Sincerely,
JAWAHAR LAL NEHRU

—:o:—

PAKISTAN ON NIMITZ REPLACEMENT

Letter, dated October 31, 1953, from the Prime Minister of Pakistan to the Prime Minister of India

My dear Prime Minister,

I must apologise for the delay in replying to your letter of 3rd

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September 1953. I have been exceedingly busy and also for a period unwell while your letter needed very careful consideration.

2. I am wholly in agreement with you as to the necessity of building up a closer and cooperative relationship between India and Pakistan. I am, therefore, deeply sensible of the urgency of finding a solution of the Kashmir and other disputes that now embitter relations between the two countries and, to that end, of the importance of the discussions that are taking place between us. I have no doubt whatever in my mind that, given the right approach, we will succeed in resolving our differences. Indeed, we could succeed. You and I have today an opportunity which, if we could only turn it to best advantage, should contribute powerfully to the welfare of millions of human beings in Asia. Let it not be said that we failed to rise to the greatness of this occasion. History would never forgive us if we failed.

3. I also agree as to the necessity of frankness and a cooperative approach in our conversation and in our correspondence and that no useful purpose would be served by trying to score a debating point or "overreach each other".

4. You have complained of the attitude of the Press and the people in Pakistan. I have dealt with this subject in my letter of 5th September and propose to deal with it separately again in my reply to your letter of September 23rd. The atmosphere of good-will which you and I have laboured to create has been disturbed on two occasions. The first was when the dismissal and imprisonment of Sheikh Abdullah, followed as it was also by suppression of pro-Pakistan elements, had repercussions in this country. The people began to ask—and I have not been able fully to reassure them on this point—how was such action consistent with India's repeated declaration that the fate of Kashmir shall be determined by the people of the State, if those people were not to be allowed the freedom to express themselves on this issue. The second occasion arose immediately after the conclusion of our Delhi talks, when contents of what had passed in confidence between you and me leaked out to the Press. As explained in my letter of September 5th, this also naturally produced a sharp reaction in this country.

5. It appears to me, however, that we must not allow ourselves to be deflected from our course by any temporary set-back and must press forward towards our objective of resolving all our disputes and in particular of holding a free plebiscite in Kashmir as speedily as possible. If we wait for a really calm atmosphere, before proceeding with our task of achieving that objective, we might continue in a vicious circle, since a calm atmoshere is not possible without removal of the causes that poison it. We must break this circle by pursuing our goal steadfastly to a successful conclusion.

6. I now come to the main subject of our discussion. During our talks in Delhi I understood you to be in favour of a regional plebiscite. By a regional plebiscite I mean a plebiscite in which the accession of various regions is determined by the result of the vote in those regions. The fact that such plebiscite is held in the entire State at the same time makes no difference to its character.

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7. In my letter of 27th August I had stated that to enable us to express a definite view for or against a proposal for a regional plebiscite the regions must be defined beforehand and had observed that the conditions for ensuring fairness and impartiality in any regional plebiscite must necessarily be more strict than in an overall plebiscite.

8. It now appears from your letter under reply that I had misunderstood you and that you are not proposing a regional plebiscite. You have also pointed out that my suggestions for securing greater strictness in the fairness and the impartiality of the plebiscite depart, to some extent, from the Resolutions of the United Nations Commission which have received our joint consent. Incidentally, you have in this connection mentioned some controversial points, such as the *de jure* authority of the State Administration. I do no think anything will be gained by traversing this controversial ground again.

9. You suggest that we would be in a position to take the final decision after taking into consideration the result of the plebiscite in the entire State and geographical, economic and other important factors. I fear that such a procedure would not be conducive to a final settlement of this dispute as there would be no assurance that an agreed solution would be found even after the plebiscite has been held.

10. In the circumstances, there is no point in pursuing further the idea of a regional plebiscite in any form. It appears to me that our best course would be to make what has been already agreed between us the starting point of further progress. What we have jointly agreed to is embodied in the Resolutions of the United Nations Commission to which you have referred, and the Joint Communique issued by us in Delhi lays down the procedure for implementing this Agreement.

11. We should now, in accordance with this procedure, establish the official Committees which we have agreed to set up and require them to take up the question of demilitarisation of the State and other preliminary issues that need action preparatory to the induction into office of the Plebiscite Administrator. If the Committees are able to tender an agreed report, well and good. If not, we could meet and resolve any differences and the way will then be clear for the holding of an over-all plebiscite as already agreed to between India and Pakistan. If you agree, would you kindly nominate your representatives to these committees and suggest the time and place where they should meet.

12. There are a few other matters that have been touched upon in our correspondence and I shall now deal with them. You are opposed to the appointment of a Plebiscite Administrator from one of the major powers on the ground that this would imply some deviation from your policy of non-alignment. My colleagues and I appreciate your point of view, although we do not quite see why the continuance of Admiral Nimitz as a Plebiscite Administrator under the United Nations, which was agreed to by both our countries, should have any such results as you apprehend. Unfortunately this question has been unnecessarily complicated by the leakage of news and the public stand that was taken on it before my colleagues and I had time fully to consider it. If, as I hope, we are able to reach an agreement on the preliminary issues and arrangements preparatory to the plebiscite, I should anticipate no difficulty in resolving this question by mutual agreement.

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Difficulty About DPs' Vote

13. We agreed in Delhi that the plebiscite need not await the rehabilitation in their homes of the displaced citizens of the State. But this does not and cannot mean that these displaced citizens should be deprived of their vote in the plebiscite. I can see no reason either in justice and equity or on the basis of the agreements already reached between us which would justify our depriving them of their right to participate in the plebiscite. If it is feared that the identification of these persons will present difficulty, similar difficulties would have to be faced in the State itself in distinguishing between those who are citizens of the State and therefore are entitled to vote and those who have come from outside to reside therein but are not State citizens. Neither process presents insuperable difficulties or need cause delay.

14. I agree with you that the solution of the Kashmir problem should be arrived at in such manner as to cause the least disturbance to the life of the people of the State. Here the way we approach the problem and the spirit in which we tackle it at each stage are of the utmost importance. If the people of the State see that the two Governments are approaching this question in a spirit of good-will and friendship and are determined to protect the minorities in India and Pakistan and treat them in a fair and generous manner, the people of the State would feel re-assured and no disturbance to their life would be caused. We must, therefore, continue in our efforts resolutely towards the creation of a friendly and co-operative atmosphere between our two countries and an amicable solution of all those disputes which at present vitiate it. I assure you that my colleagues and I are determined to continue to do our best to achieve this objective.

Yours sincerely,
MOHAMMED ALI

—:o:—

Difficulty About DPs' Vote

Letter, dated November 10, 1953, from the Prime Minister of India to the Prime Minister of Pakistan

My dear Prime Minister,

I have to acknowledge with thanks your two letters, dated 31st October and 3rd November. I was anxious to reply to them almost immediately on receipt, but there has been some little delay as I was touring.

2. Your letter of the 3rd November deals entirely with certain complaints about what has been said in India or written in the Press here. I did not at any time say that our Press was blameless or that individuals here did not make undesirable statements. It is easy to make a list of odd statements like this. What one has to consider is the general atmosphere in a country and the relative importance that should be attached to statements or to the attitude of certain sections of the Press. We have got hundreds of daily newspapers in India and hundreds of other periodicals. We have also, fortunately or unfortunately for us, a Constitution and laws which give the greatest latitude to the Press and individuals. We have no

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authority to deal with them such as Pakistan Government has under its present laws. The point is, however, that in the Pakistan Press there has been often a widespread and persistent attack on India and a frequent preaching of jehad and war, I am not aware of anything like it in India. I had ventured to point out to you that the hysterical outburst in the Pakistan Press almost immediately after your return from Delhi was, amazing, and I was much upset by it. The only reason you give for it isa what is termed, a "leakage" about our conversations. Even if there was leakage, such as you suggest, I fail to understand why the Pakistan Press should go off the tracks completely. As for this "leakage", I have already written to you. If my speaking frankly and privately to a *Dawn* correspondent, before we had issued our joint statement, is supposed to be organised leakage, I confess I do not understand it. You refer to some other newspapers. As a matter of fact, the question of the Plebiscite Administrator has been discussed in our Press many times and, broadly speaking, they could make intelligent guesses about our attitude even before you came. Frankly, the subject seemed to me of no great importance and, in the circumstances, I did not think that it was a debatable point. It is possible that some slight leakage might have occurred, though how and where, I do not know. But, as I have said above, presuming a leakage, how can the reaction of the Pakistan Press on that occasion be justified ?

3. I need not discuss here the various quotations you have given from a few newspapers. But I should like to say something about your reference to Mr. Ghulam Mohammad Bakhshi, the Prime Minister of Kashmir. Mr. Bakhshi is the Head of a Party and of a Government holding a very definite view-point. He expresses that view-point with vigour. Nobody says that he is an impartial and objective witness of events. He is an actor in them, aiming at a certain objective, which he has every right to do in his position.

4. Mr. Bakhshi's reference to foreign powers may or may not be correct. But it is well-known that the foreign policies of India and Pakistan differ considerably. Our policy has often not found favour with the United States Government and, sometimes, not with the United Kingdom Government. Pakistan's policy is apparently more agreeable to these Governments. Certain possible consequences flow from this, and any public man may draw his inferences.

5. I come now to your letter of the 31st October. I am glad to find that you and your colleagues appreciate our point-of-view now in regard to the appointment of a Plebiscite Administrator from the smaller and more or less neutral countries of Asia or Europe. Even when I first spoke to you about this matter , it seemed to me that the reason behind our proposal was such that you would accept it immediately. Since then, other events have happened, which make it all the more incumbent that the Plebiscite Administrator should not come from any major power or any country which is involved in the so-called cold war. I presume that our difference in approach to this problem has been due to our different approaches to foreign policy generally.

6. You refer to the question of regional plebiscite. I can only repeat what I endeavoured to put before you when we met. Our object is to give freedom to the people of Kashmir to decide their future in a peaceful way and so as to create no upset, as we said in our joint statement.

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Obviously, any method that creates that upset will be bad for Kashmir's future as well as for India and Pakistan. We have thus to proceed warily. If a decision leads to large-scale migrations, that will be an upset of a major character and would create ill-feeling in Pakistan or India as well as in the Kashmir State itself. We cannot proceed by some mathematical rule in dealing with large numbers of human beings. We have also to consider many other factors.

7. If, however, we decide on a regional plebiscite, how are we to define the regions ? I know of no adequate basis except some rule of thumb. Also, the mere definition of a region, by some rough and ready way at this stage would create a certain measure of upset within that region.

8. Therefore, I had suggested that the plebiscite should be for the State as a whole and the detailed result of the plebiscite would then be the major factor for the decision to be taken. That detailed result will give us a fairly clear indication of the wishes of the people not only in the State as a whole but in different areas. Obviously, one cannot go by that completely, because some absurd result might flow. Any boundary, which is to be an international frontier, must take into consideration a number of other factors. It must be geographical, clear and suitable from a number of other important points-of-view. A handful of persons cannot change a boundary becasue they wish it. This seems to me the only reasonable approach to this problem.

9. You refer to the displaced persons. I have given a good deal of thought to this matter and it seems to me that it is parctically almost impossible for us to include these displaced persons in this plebiscite voting. Any attempt to do so would of course prolong the period very greatly. Even so, I do not see how it can be done satisfactorily. Are we to undertake large-scale rehabilitation schemes, involving fresh displacements and upsets ? For the last few years, your country and mine have faced tremendous problems of displaced persons. We face them still. Are we to reproduce this problem in the Kashmir State and expect to deal with it satisfactorily within a measurable period of time ? If, on the other hand, it is suggested that we allow the displaced persons to vote where they are, that would be an extraordinary proposal, which seems to me totally impracticable. These persons are spread out over great areas. There can be no possible check on them. Who is to distinguish between them and others ?

10. You say that the same difficulty might arise within the State itself. Surely that is not so. The position is entirely different.

11. I agree with you that we should consider the appointment of official committees and determine their agenda.

Yours sincerely,
JAWAHARLAL NEHRU

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PAKISTAN OBJECTIONS

Letter, dated December 1, 1953, from the Prime Minister of Pakistan to the Prime Minister of India

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My dear Prime Minister,

I regret owing to indisposition and absence from Karachi I was not able to reply to your letter dated November 10th earlier.

2. I have carefully noted what you say in reply to my letter of November 3rd. The issues raised therein have, I think, been discussed sufficiently fully already; we know each-other's point-of-view and I consider it unnecessary for me to elaborate my views further. The important thing is that we are both agreed that we must endeavour to maintain an atmosphere of peace and goodwill in our two countries and both you and I will continue to bend our efforts to that end.

3. I proceed therefore to take up that part of your letter which deals with my letter of the 31st October.

4. As regards the Plebiscite Administrator, I have already stated my views in para 12, of my letter of October 31st. I have nothing more to add.

5. As to the plebiscite, I note again that you do not favour the idea of a regional plebiscite. I have already suggested that we abandon this idea altogether. The question of definition of the regions therefore *now* no longer arises.

6 You say that after the plebiscite for the State as a whole has been held the detailed result would then be the major factor for the decision to be taken and that any boundary, which is to be an international frontier, must take into consideration also a number of other factors. As stated in my letter of October 31st, I fear such a course will not be feasible, since it implies that even after the plebiscite has been held there will be no assurance that an agreed settlement of this dispute will be reached. Under the existing agreement between India and Pakistan, the State of Jammu and Kashmir is to be disposed of in accordance with the verdict of the people of the State, given in a free and impartial plebiscite. Once the plebiscite has been held and the people's verdict as to the accession of the State of Jammu and Kashmir as a whole is known, both India and Pakistan would be bound to abide by that verdict; it would not be open thereafter to either of us to proceed to dispose of the State in accordance not with that verdict but with some different criteria to be then defined.

7. We have both agreed that the Kashmir problem should be settled in such a manner as would not result in a major disturbance of the life of the people in the State. You refer to the necessity of preventing large-scale migrations that would be an upset of a major character. As stated in my letter of October 31st, the decisive factor in preventing any major upset will be the spirit in which our two Governments approach this problem. If in this approach we are able to maintain a spirit of goodwill and friendship between our two countries—and amicable solution of the Kashmir dispute will in itself contribute most powerfully to the building and maintenance of such a relationship—there is no reason why the people in the State should have any misgivings as to their future or wish to leave their homes.

8. You have referred to the difficulties of allowing displaced persons to take part in the plebiscite. I did not suggest that we should undertake their rehabilitation before the plebiscite takes place. On the other hand,

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we cannot in justice deny them the right to participate in the plebiscite. Indeed, this right is guaranteed to them under our exsisting agreement according to which all citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. It is not open to either of us to deprive them of that right. What remains to be done, however, is to devise practical arrangements, such as perhaps locating them in temporary camps within the State, which would meet the difficulties you have in mind. The devising of such arrangements under which these displaced State-citizens may vote as also of the safeguards necessary to ensure that persons who have come from outside to reside in the State but are not State-citizens do not participate in the voting are matters for the Plebiscite Administrator to handle and we may well leave these questions to him to settle after he has been formally inducted into office.

9. As regards the official committees, it occurs to me that it will probably be a better arrangement if there is only one committee of civil officials to which military advisers may be attached. It will, of course, be open to this committee to require the military advisers on both sides to go into a sub-Committee to examine purely military issues. I hope you will agree with this view. Our representatives on this committee will be Messrs. Aziz Ahmed, M. Ayub and Aftab Ahmed Khan, with Major General K.M. Sheikh and Lt.-Col. Mohammed Iqbal as their military advisers. Will you kindly let me know the names of your representatives on this committee ?.

10. I suggest the following agenda for the Committee :—

(i) (a) demilitarization of the State of Jammu and Kashmir, and

(b) other preliminary issues requiring decision preparatory to induction into office of the Plebiscite Administrator :

(ii) action necessary to implement decisions taken under item (i) as envisaged in the Joint Communique dated 20th August 1953.

I shall be glad to know whether you agree that this agenda sufficiently covers the matters that should be referred to this committee for examination or whether you wish any amendments to be made.

11. I suggest that the committee should be required to meet by the 15th of December in Karachi or, if you so wish, in Delhi.

Yours sincerely,
MOHAMMED ALI

NEHRU'S CONCERN ABOUT U.S.-PAK MILITARY PACT

Letter, dated December 9, 1953, from the Prime Minister of India to the Prime Minister of Pakistan

My dear Prime Minster,

Thank you for your letter of the 1st December 1953. I have been distressed to learn of your ill-health. I hope you have wholly recovered now.

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Nehru's Concern About U. S.—Pak Military Pact

2. On the 10th November, I wrote two letters to you, one of which was a personal letter. In that letter I referred to various matters including the evacuee property problem. In particular, I referred to the news of a military pact between Pakistan and the United States of America. I made it clear that it was not our wish to interfere in any way with Pakistan's internal or external policy. But when something is done in Pakistan which is likely to create powerful repercussions in India, then it is only right that I should draw your attention to it, just as if anything happened in India, which would produce that result in Pakistan, you would be perfectly entitled to draw my attention to it.

3. You have not referred to this matter in your letter to me, but in a public statement you have denied any such pact between Pakistan and the U.S.A. The Governor-General of Pakistan has also said that all such rumours were without foundation and were baseless.

4. You are no doubt aware that the Press of the United States has been writing about this proposed military pact or agreement repeatedly and in great detail. There was no denial of this or even correction. I had to conclude, therefore, that there was some basis for what was being written about so frequently in America.

5. As a matter of fact, there has been no uniformity in the various denials issued. Indeed, some statements made by responsible statesmen in the United States practically confirm these rumours, except, perhaps in regard to military bases. Even during the last three or four days, newspapers all over the world have been full of the military assistance that is likely to be given to Pakistan by the U. S. A. If this is so, then you will permit me to say that my statement was not far from the truth and that the denials were hardly correct.

6. In my personal letter of the 10th November, I pointed out that any such pact between Pakistan and the U. S. A. meant the alignment of Pakistan, both in regard to its foreign and defence policy, with a particular bloc of nations. So far as India is concerned, it has been our consistent policy to avoid any such alignment, bacause we believe that this would be undesirable from the point of view of peace in Asia as well as world peace. We hoped that the countries of Asia would keep free from these entanglements and preserve an area of peace, whatever happened elsewhere. Some other important countries in South Asia have independently followed the same policy. Apart from the danger of extending the sphere of war, such alignments were highly likely to lead to progressive limitations in the independence of the country so entangled. The countries of Asia have only recently recovered their freedom and, in our opinion, it would be most unfortunate that any policy should be pursued which would inevitably bring in powerful outside influences, limiting that freedom. Our past history is a warning to us in this respect.

7. I mention this because, in view of the developments that appear to be taking place, Pakistan's foreign and defence policy will become diametrically opposed to the policies we have so consistently and earnestly pursued. I can only express my regret that the area of disagreement between India and Pakistan should be extended over a wider field now. So far as we are concerned we shall continue to pursue our own policy of peace and non-alignment.

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8. You and I are concerned with our respective countries and we bear a heavy responsibility for their well-being. We have to think also and shoulder some responsibility for world affairs, and chiefly the vital issues of peace and war. In any event, we cannot forget that those issues affect our respective countries. We have thus to fashion our policies, keeping all this, and more especially peace, in view. War today is likely to be an irretrievable disaster and all our hard-won freedom will be endangered by it. Progress and reconstruction will, of course, stop completely. In fact, the movement will be in an opposite direction.

9. I do not know what the present position is in regard to the military pact or assistance between Pakistan and the U. S. A. But responsible newspapers state that large-scale military assistance and equipment, arms and training will be given to Pakistan by the U. S. It is even stated (*The New York Times* has said so) that an army of a million men may be so trained in Pakistan. No doubt, the United States thinks that these forces may be utilized for a possible war against the communist countries. Some of us differ from them in considering this as a method of ensuring peace. It seems to us rather an encouragement to war. Whatever the motive may be, the mere fact that large-scale rearmament and military expansion takes place in Pakistan must necessarily have repercussions in India. The whole psychological atmosphere between the two countries will change for the worse and every question that is pending between us will be affected by it. We do not propose to enter into an armament race with Pakistan or any other country. Our ways of approach to these international problems are different from those of the nations of Europe and America. But it is obvious that such an expansion of Pakistan's war resources, with the help of the United States of America, can only be looked upon as an unfriendly act in India and one that is fraught with danger. It is not the people of India who think so but people of other countries also and this has little to do with the motives behind the act, because the result in any event will be the same.

10. This matter is of such great importance and far-reaching consequences that I am writing to you once more about it, in addition to the more formal approach that we have asked our High Commissioner at Karachi to make to you. Inevitably, it will affect the major questions that we are considering and, more especially, the Kashmir issue. We have been discussing for a long time past, the question of demilitarisation in the Kashmir State. Indeed, it is proposed to discuss this particular question again at the Official Conference that has been suggested. The whole issue will change its face completely if heavy and rapid militarisation of Pakistan itself is to take place. It is a relatively small matter what forces Pakistan maintains within the State of Kashmir, as it is doing at present. They can withdraw them 30 or 40 or 50 miles into Pakistan territory. These forces can come back at a few hours' notice. If, however, they are backed by an increasing armed power in Pakistan itself, that is of far greater moment than the so-called demilitarisation of Kashmir State. In fact, it becomes rather absurd to talk of demilitarisation, if Pakistan proceeds in the reverse direction with the help of the United States.

11. I have been, and am, anxious that we should proceed towards a settlement of the Kashmir dispute. It was with this firm resolve that

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we had talks with each other in Karachi and Delhi and issued our joint statements. These joint statements become further and further removed from reality and tend to fade away before the cruel logic of facts as they are developing, in the shape especially, of the proposals to increase largely the armed forces of Pakistan. In fact, the question before us becomes one of militarisation and not of demilitarisation. It is in this context that we have to consider this issue of Kashmir.

12. In your letter you have referred to the manner of taking the plebiscite and have not agreed with what I had written in paragraph 6, 7 and 8 of my letter of November 10. I can only say that your arguments failed to convince me and that I can only repeat what I said in my previous letter on this subject. So also in regard to the displaced persons. We have to consider this matter in not an argumentative and legalistic way, but from the broader point of view of bringing about a fair decision in Kashmir and avoiding upsets and large-scale dislocation. This was our approach in our talks and in the joint statements we issued. That approach is nullified if we are to adopt the procedure that you have suggested in your last letter. I cannot conceive of how we can have that procedure of temporary camps, etc., without creating enormous difficulties.

13. Regarding the Official Committees, I am agreeable to a meeting taking place at a fairly early date. I would suggest that the meeting be held in Delhi. We are so overwhelmed at present with our work here and with Parliament that it is difficult to send persons to Karachi. As for the date, I should like it to be as soon as possible. But the date you suggest, namely the 15th December, is too near for proper arrangements to be made. I would therefore suggest that the Conference be held in Delhi on Monday; the 21st December 1953. Our representatives at the Conference will be :

(1) Shri M. J. Desai.

(2) Shri Vishnu Sahay,

(3) Shri V. Shankar, and

(4) Brigadier Maneckshaw.

There may be two or three civil or military representatives.

14. As for the agenda you have suggested, I have nothing special to say. We need not adopt the methods of Panmunjon and argue about rigid agendas indefinitely.

15. Please let me know if the date I have suggested suits you.

Yours sincerely,
JAWAHARLAL NEHRU

PAKISTAN'S CLARIFICATION

Letter, dated February 24, 1954, from the Prime Minister of Pakistan to the Prime Minister of India

My dear Prime Minister,

I had intended to wait for a reply to my letter dated February 4th

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before writing to you again on recent developments relating to Kashmir. But the injurious effect these developments are having on public opinion in Pakistan makes it necessary that I write to you about them without further loss of time.

These developments are, firstly, a reported decision of the "Constituent Assembly" in Srinagar that the State of Jammu and Kashmir accede to India and, secondly, certain statements made by you on this subject in the Indian Parliament on February 19th and 22nd.

In my letter of February 4th I had drawn your attention to Press reports of a statement made in Delhi by Bakhshi Ghulam Mohammed, following his discussions with the Government of India to the effect, *inter alia*, that the Kashmir "Constituent Assembly" would ratify the State's accession to India and that the day in April of which Pakistan was dreaming, when the Plebiscite Administrator was expected to be appointed, would never come. I was taken aback when I saw that statement, made apparently with the approval of the Government of India, because it made a mockery of the agreement that you and I had reached in Delhi and of the international obligations concerning Kashmir that India had solemnly assumed. It seemed to me that this statement was bound to create misgivings in this country, if not in India also, as to the Government of India's real intentions and unless it was immediately countered by visible proof of our determination to settle this dispute and, in pursuance thereof to proceed with the implementation of the Joint Communique we issued in Delhi, serious damage might be done to Indo-Pakistan relations and the improvement, which you and I had brought about in these relations after such labour, might be dissipated.

I therefore sought your intervention in the matter. To that letter so far I have received no reply.

In the meantime, as foreshadowed by Bakhshi Ghulam Mohammed, the "Constituent Assembly" has endorsed the proposal that the State of Jammu and Kashmir accede to India. I was surprised to learn of this decision, taken in contemptuous disregard of our talks and the agreement you and I reached in Delhi and of India's international commitments under the UNCIP resolutions. Speaking at a public meeting in Sylhet on Februar 9th, therefore, I appealed to you to repudiate this decision and reaffirm your intention unequivocally to solve the Kashmir dispute in accordance with those commitments.

This you have declined to do. I gather from Press reports that, speaking in the Indian Parliament on February 19th and 22nd, you not only characterised the suggestion that this decision should be repudiated as "absurd" but went on to say that you stood by India's international commitments "subject to such changes as may come about by other events", or "unless something else happens".

This is a position which I find difficult to reconcile with your undertaking, freely and repeatedly given, that the question of accession of the State of Jammu and Kashmir shall be decided by a free and impartial plebiscite.

You are reported to have said that "it will be completely wrong for me to repudiate the decision of an elected Assembly". I do not see where exactly does the wrong lie? Surely. there could be nothing wrong in

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saying that India could not recongnise this decision because she was bound under an international agreement to decide the question of accession of the State only through a free and impartial plebiscite held under the auspices of the United Nations. Your omission to do this has, I fear, been widely misunderstood, in view particularly of the background against which this decision has been taken by the "Constituent Assembly". It is being generally assumed that India was a willing party to this decision.

Your statement further that India stood by her international commitments "subject to such changes as may come about by other events" or "unless something else happens" puts, if I may say so, a novel construction on the sanctity of international commitments. At the time India accepted the commitments contained in the UNCIP resolutions or even when we talked in Delhi and issued the Joint Communique no such reservation was made. For one party unilaterally to make such a reservation now would imply that it did not in fact intend to abide by its commitments and that it would repudiate them, taking advantage of "other events", whenever it suited it to do so.

I believe that it is not your intention to repudiate the commitments that India and in particular you personally have assumed as a result of those agreements. I believe too that you are anxious to see this dispute resolved in conformity with those commitments as speedily as possible.

But the Kashmir question is a matter that powerfully moves millions of people in this country. They will judge you and me not by the opinions we may hold of each other but by our public pronouncements and conduct in regard to this dispute. The action of the Srinagar Assembly and your attitude and pronouncements in that regard have made a most unfavourable impression in this country.

In the circumstances, I would earnestly suggest that, if further negotiations between us are to serve the purpose we both have in view, the misgivings which these developments have occasioned should be set at rest. To my mind this can be done only by an unequivocal declaration by you that India stands by her international commitments in regard to the Kashmir dispute, backed by positive action in pursuance thereof, so that the Plebiscite Administrator is inducted into office by the end of April as stated in our Joint Communique. Not until this is done will public confidence be restored in our pronouncements that we wish to settle this dispute and are determined to see Indo-Pakistan relations placed on a friendly and co-operative footing.

Yours sincerely,
MOHAMMED ALI

PAKISTAN ON NEHRU'S NO-WAR DECLARATION PLAN

Letter, dated September 21, 1954, from the Prime Minister of Pakistan to the Prime Minister of India

My dear Prime Minister,

I thank you for your letter of August 23rd, 1954. I greatly regret the delay that has occurred in my replying to your letter concerning evacuee property. As you know, I have been unusually busy since the receipt of that letter. I hope, however, to send you a reply shortly.

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9. I now come to that part of your letter which relates to the Kashmir dispute.

10. I regret that you should still continue to maintain, despite my explanations to the contrary, that the fact that Pakistan should choose to strengthen its defences with military aid from the United States has a direct bearing on the question of demilitarization of Kashmir preparatory to the holding of the plebiscite. You also maintain that Pakistan's security is not threatened, implying thereby that we need take no special steps to strengthen its defences. I should have thought that we were the best judges of this matter. In any event, if we consider that Pakistan's defences need to be strengthened, then surely, we should be failing in our duty to our people if we did not take steps necessary to strengthen them.

11. You have referred again to your suggestion for a No-War declaration. You have mentioned in this connection also the non-aggression declaration your Government has made jointly with the People's Republic of China. Your contention is that a declaration such as this would create a better and more friendly atmosphere for the solution of our disputes.

12. Since you have made this suggestion more than once, it is necessary that I explain our attitude more fully. When you first proposed a No-War declaration in 1950, you will recall that my predecessor, the late Mr. Liaquat Ali Khan, wholly welcomed the proposal. He pointed out, however, that its primary object must be to carry conviction to the peoples of India and Pakistan that both Gevernments were sincere in renouncing war as a method of settling disputes. He therefore urged that if this objective was to be achieved the declaration should embody also an effective procedure for the peaceful resolution of all Indo-Pakistan disputes. He accordingly suggested a No-War declaration which would have made it obligatory for both Governments to refer every dispute between the two countries to arbitration (or judicial determination) should negotiation and mediation fail and to abide by the award of the arbitrator, so that neither party was allowed to obstruct a peaceful settlement indefinitely. Unfortunately, you did not accept his suggestion and there the matter ended.

13 During the last two years, whenever you have referred to this dispute, you have merely repeated your original offer and given no indication that you would be prepared to consider the No-War declaration proposed by the late Mr. Liaquat Ali Khan. The matter has therefore stood where it was.

14. It would thus not be correct to assume that Pakistan has declined to join in a No-War declaration with India. We are and have always been willing to subscribe to such a declaration. What we want, however, is that it must be an effective No-War declaration, not of the kind proposed by you which would result in no improvement in Indo-Pakistan relations so long as our disputes are not resolved. A No-War declaration which does not contain any assurance that those disputes will ever be resolved will entirely fail to make any favourable impression on Indo-Pakistan relations and would therefore be valueless. On the contrary, such a declaration by so failing is bound to disillusion our peoples and may well make these relations worse.

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15. I am not aware of any violent propaganda in Pakistan in favour of war that you complain of. On the contrary, my Government have on every suitable public occasion deprecated any idea of a war between India and Pakistan and placed the improvement of Indo-Pakistan relations in the fore-front of its policy towards India. I have spoken on this subject times without number and only recently, speaking at Manila, our Foreign Minister said "aggression between Bharat and Pakistan would be sheer lunacy and suicide". It is true, however, that our people feel very strongly over the Kashmir issue and are rightly impatient over the unconscionable delay in its settlement. This merely underlines my considered view that this dispute must be settled if relations between our two countries are to improve.

16. As I have repeatedly explained already, I see no connection either between U. S. military aid and the question of quantum of forces to be retained in Kashmir during the plebiscite. The quantum and disposition of the forces in Kashmir at that time must be determined only by the over-riding necessity of ensuring the freedom of the plebiscite. The relative military strength of India and Pakistan *outside* Kashmir can have surely no bearing on this issue. If it did, we should never have offered, as part of our demilitarization proposals, to withdraw our troops entirely from Kashmir preparatory to the plebiscite. The view you now advance would completely rule out a free vote.

17. You say you are anxious and eager for a settlement about Kashmir and that it was only because the preliminary issues such as the quantum of forces to be retained in Kashmir could not be resolved that we could not go forward. I am sorry to say that I have seen little evidence of this anxiety. I need not go into the details of all of the various strange happenings during the course of our negotiations. In January this year, for instance, after discussions with the Government of India in Delhi, Mr. Bakhshi made some extraordinary statements in total disregard of our Joint Communique of August last year. He said that Kashmir would accede to India, that this decision would be ratified by the so-called Constituent Assembly in Srinagar and that the day in April of which Pakistan was dreaming (when, under the Joint Communique, the Plebiscite Administrator was to be appointed) would never come. Subsequently, as forecast by Mr. Bakhshi, the Srinagar Assembly did endorse that decision on accession and on several later public occasions Mr. Bakshi made violent speeches to the effect that there never shall be a plebiscite. All these decisions and statements were made with the apparent approval of the Government of India, and when I suggested that you disavow them you declined to do so, although they were in flat condradiction not only of agreements contained in our Joint Communique but also of international obligations voluntarily assumed by India under the UNCIP Resolutions. I have dealt with all these matters in this correspondence already. Here I will mention only one further matter which makes me doubt whether you wish to settle this dispute at all. Since January in practically every letter of mine I have asked for a resumption of negotiations to resolve the preliminary issues that were holding up further progress. You have steadfastly refrained from agreeing to it. Every suggestion from me that we take up settlement of these issues has been met merely by a reiteration of your view that the context of Kashmir negotiations had changed entirely and solution of these issue had become more complicated

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because of Pakistan's decision to receive military aid from the United States. In particular, you have continued to hold, although I see no warrant for such a contention, that in view of this aid India would now have to maintain larger forces in Kashmir during the plebiscite than previously. This attitude completely rules out any possibility of agreement between us on the question of demilitarization, since retention in the plebiscite area of armed forces of the size you envisage would destory the freedom of the plebiscite.

18. In the circumstances, I am bound to conclude that there is no scope left for further direct negotiations between you and me for the settlement of this dispute. This case therefore must revert to the Security Council.

19. I propose, with your concurrence, to publish our correspondence on Kashmir, as detailed in the *appendix*, on October 1st. You will doubtless wish to publish it also on the same date.

20. It is with profound regret that I have been led to the conclusion that our talks regarding Kashmir have failed. Ever since I assumed my present office I have, as you know, laboured unceasingly to set the relations between India and Pakistan on a friendly and cooperative basis. It is my firm conviction that no greater contribution could be made to the cause of peace than by the elimination of disputes that continue to poison the relations between our two countries and prevent them from collaborating in the promotion of peaceful objectives. In particular, I have been deeply impressed by the urgency of resolving the Kashmir dispute. Not only does the continuance of this dispute constitute the gravest potential threat to peace in this region, it has prevented the establishment of any real friendship or cooperation between our two countries. It continues to create tension and bitterness and suspicion and has resulted in a heavy drain on the meagre resources of our two countries—meagre in relation to our vast needs—resources which are desperately needed for raising the living standards of our peoples. Above all, it strikes me as paricularly unfortunate that while you continue to profess much concern for the cause of international peace and the recognition of the right to self-determination of the peoples of Asia, the four million inhabitants of the State of Jammu and Kashmir should remain denied of the right to self-determiniation for seven long years.

21. I fail to see why it should not be possible to resolve the Kashmir dispute if you were really anxious to resolve it. After all what does Pakistan want? It wants merely this that India fulfil her international, obligation, which she assumed of her own volition, to permit the people of Kashmir to decide by means of a free and impartial plebiscite whether they wish to accede to India or Pakistan. All efforts hitherto made by admittedly impartial international agencies have failed to persuade India to agree to holding a free and impartial plebiscite. In view of this background, as also of the unhappy trend of our negotiations, I regret I cannot help feeling that a wholly extraneous issue, that of U.S. military aid, has been put forward as yet another reason for declining to hold such a plebiscite and denying to the people of Kashmir the right to self-determination.

22. I hope and pray that the conscience and wisdom of Man may

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yet perceive the great injustice and dangers inherent in the continuance of this disastrous dispute and find the way to a just settlement before irreparable damage is done to Indo-Pakistan relations and to the cause of stability and peace in Asia.

Yours sincerely,
MOHAMMED ALI

The Joint Communique of August 20, 1953

"The Prime Ministers of Pakistan and India held several meetings on August 17, 18 19 and 20 in New Delhi. These talks were in continuation of the talks they had held in Karachi three weeks earlier. Kashmir and other problems outstanding between the two countries were discussed fully and frankly. Both the Prime Ministers were actuated by a firm resolve to settle these problems as early as possible, peacefully and co-operatively, to the mutual advantage of both countries.

2. The Kashmir dispute was specially discussed at some length. It was their firm opinion that this should be settled in accordance with the wishes of the people of that State with a view to promoting their well-being and causing the least disturbance to the life of the people of the State. The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite. Such a plebiscite had been proposed and agreed to some years ago. Progress, however, could not be made because of lack of agreement in regard to certain preliminary issues. The Prime Ministers agreed that these preliminary issues should be considered by them directly in order to arrive at agreements in regard to this. These agreements would have to be given effect to and the next step would be the appointment of a Plebiscite Administrator.

3. In order to fix some kind of a provisional time-table, it was decided that the Plebiscite Administrator should be appointed by the end of April 1954. Previous to that date the preliminary issues referred to above should be decided and action in implementation thereof should be taken. With this purpose in view Committees of Military and other experts should be appointed to advise the Prime Ministers. On the Plebiscite Administrator's formal appointment and induction into office by the Jammu and Kashmir Government he will examine the situation and report on it. He will then make such proposals as he thinks proper for preparations to be made for the holding of a fair and impartial plebiscite in the entire State and take such other steps as may be considered necessary therefore.

4. Dealing with evacuee property omitted.

5. Dealing with Cooch Behar enclaves omitted.

6. The Prime Ministers are happy to record this large measure of agreement of vital matters affecting their two counties and they trust and believe that further success will attend their efforts so that all the problems which have unfortunately come in the way of good relations between the two countries should be solved satisfactorily. Progress can only be made in this direction if there is an atmosphere of peace and co-operation between the two countries. This has, therefore, to be actively

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encouraged The Prime Ministers deprecate any propaganda or attack on one country by the other in the Press, by Radio or by speeches or by statements made by responsible men and women of either country. They trust, therefore, that all organs and responsible leaders of public opinion will direct themselves to this great task of promoting goodwill between the two countries and thus help in solving all problems and disputes that might exist between them. The Prime Ministers attached the greatest importance to this friendly approach and to the avoidance of words and actions which promote discord between the two countries.

7. The Prime Ministers intend to keep in close touch with each other so as to expedite progress in the directions indicated above''.

———

Eisenhower's Letter to Nehru

The text of President Eisenhower's letter regarding military assistance to Pakistan, handed over by Ambassador Allen to Prime Minister Nehru on February 24, 1954.

"My dear Mr. Prime Minister,

I send you this personal message because I want you to know about my decision to extend military aid to Pakistan before it is public knowledge and also because I want you to know directly from me that this step does not in any way affect the friendship we feel for India. Quite the contary. We will continually strive to strengthen the warm and enduring friendship between our two countries.

Our two Governments have agreed that our desires for peace are in accord. It has also been understood that if our interpretation of existing circumstances and our belief in how to achieve our goals differ, it is the right and duty of sovereign nations to make their own decisions. Having studied long and carefully the problem of opposing possible aggression in the Middle East, I believe that consultation between Pakistan and Turkey about security problems will serve the interests not only of Pakistan and Turkey but also of the whole free world. Improvement in Pakistan's defensive capability will also serve these interests and it is for this reason that our aid will be given. This Government's views on the subject are elaborated in a public statement I will release, a copy of which Ambassador (George V. Allen of the United States) will give you.

What we are proposing to do, and what Pakistan is agreeing to, is not directed in any way against India. And I am confirming publicly that if our aid to any country, including Pakistan, is misused and directed against another in aggression I will undertake immediately, in accordance with my constitutional authority, appropriate action both within and without the U. N., to thwart such aggression. I believe that the Pakistan-Turkey collaboration agreement which is being discussed is sound evidence of the defensive purposes which both countries have in mind.

I know that you and your Government are keenly aware of the need for economic progress as a prime requisite for stability and strength. This Government has extended assistance to India in recognition

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of this fact and I am recommending to Congress a continuation of economic and technical aid for this reason. We also believe it in the interest of the free world that India have a strong military defence capability and have admired the effective way your Government has administered your military establishment. If your Government should conclude that circumstances require military aid of a type contemplated by our mutual security legislation, please be assured that your request would receive my most sympathetic consideration

I regret that there has been such widespread and unfounded speculation on the subject. Now that the facts are known, I hope that the real import of our decision will be understood.

I am, my dear Mr. Prime Minister,

Sincerely,

Dwight D. Eisenhower

———

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Section XIII

In The Security Council Again

After nearly two and a half a years of the failure of direct negotiations and five years of its last meeting on the subject, the Security Council of the U. N. met on January 16, 1957 to cotinue its consideration of the Kashmir issue. The meeting was convened at the request of the Pakistan Foreign Minister of January 2, (S/3767).

Various developments connected with Kashmir dispute had taken place in the meantime. The official Indian attitude had shown signs of undergoing a radical change. The Indian Prime Minister in a statement in the Parliament on March 29 1955 declared that "Pakistan is out of court" since it had failed to honour the obligation enjoined on it by the UNCIP resolution of August 13, 1948 of withdrawing its forces from the State. He indicated his opposition to plebiscite and later on April 2, voiced it openly at a Press Conference in New Delhi. The Indian Home Minister, soon thereafter, declared that Kashmir was an integral and irrevocable part of India. The Kashmir Constituent Assembly had also in the meantime adopted a constitution on November 17, 1956 to be enforced in full on January 26 1957, Section 3 of which declared. "The State of Jammu and Kashmir is and shall be an integral part of the Union of India." Along with these developments the opposition in Kashmir had also taken an accentuated form. Mirza Afzal Beg, formerly Revenue Minister in Abdullah's Cabinet, had formed the Jammu and Kashmir Plebiscite Front to advocate settlement of the issue through a plebiscite, and Sheikh Abdulah had written to the Assembly President, as also to Nehru, alleging a reign of terror in the State and questioning the right and competence of a "wholly unrepresentative body" to take a decision in the matter.

Besides the Russian leaders, Bulganin and Nikita Khruschev, who visited India in the winter of 1955, had in their public statements, in Srinagar on December 10, 1955 described Kashmir as part of India. Khruschev said "the question of Kashmir as one of the States of the Republic of India has already been decided by the people of Kashmir". He attacked Pakistan and said and that her policy "was not based on the real interests of the people and of the State, but is dictated by the monopolistic circles of other countries". The Russian leader also criticized the partition of India on religious basis. Strong exception to the remarks of the Russian leaders "amounting to interference in the internal affairs of India and Pakistan" was taken in Pakistan and in Indian Parliament.

On February 21 the Security Council requested its President (Gunnar Jarring of Sweden) to examine with the two Governments any proposals likely to promote settlement of the Kashmir issue having regard

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to the earlier resolutions of the Council and of the UNCIP. By an earlier resolution, of January 24, 1957 the Council had affirmed its old stand to determine Kashmir's future by plebiscite and declared that any action by the Kashmir Assembly and its support by the parties would not constitute disposition of the State in keeping with that principle.

Russia during the debate attacked the "imperialists' interference" in Kashmir and supported India's stand. She also vetoed a resolution sponsored by Australia, Cuba, the U.K. and the U.S.A. on February 20, including reference to "a temporary U.N. force for Kashmir" which was deleted in the Council's resolution of February 21 moved by Australia, U. K. and the U.S.A.

In the course of the debate from January 16 to February 21, 1957, Pakistan charged India with flouting her international commitments and brutally repressing the agitation for plebiscite in Kashmir. There was a reign of terror in the State and leaders of the Plebiscite Front, Political Conference, the Kashmir Democratic Union and the End Kashmir Dispute Committee had been put under detention without trial. She urged the Council to "spell out the obligations of the parties" and arrange for a plebiscite.

India countered that Pakistan was "an aggressor" and that she had no obligation to discharge until the aggression was vacated. The accession was complete in law and fact. Her voluntary offer to consult the people, was implemented through elections to the Kashmir Assembly whose actions were "declaratory and not creative." The UNCIP and other Council resolutions had become out-dated.

Gunnar Jarring who visited India and Pakistan from March 14 to April 11, 1957 submitted his report (S/3821) to the Council on April 29, making no concrete proposals but affirming that "the parties were still desirous of finding a solution". The report revealed that he had, in order to break the deadlock in regard to the implementation of part 1 of the UNCIP resolution of August 13, 1948, inquired of India and Pakistan whether they would be prepared to refer the question to arbitration, the arbitrator having also the power to indicate measures for full implementation of that part if it were found to be incomplete. Jarring also took note of the concern expressed in connection with "the changing pattern of power relations in West and South Asia. Further, the implementation of international agreements of an ad'hoc character, not speedily achieved, became progressively more difficult as the situation they were to cope with tended to change."

U. N. On Kashmir Assembly

Resolution (S/3779) adopted by the Security Council at its 765th meeting on January 24, 1957.

The Security Council :

Having heard statements from representatives of the Governments of India and Pakistan concerning the dispute over the State of Jammu and Kashmir;

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Reminding the Governments and Authorities concerned of the principle embodied in its resolutions of 21 April 1948, 3 June 1948, 14 March 1950 and 30 March 1951, and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations ;

Reaffirms the affirmation in its resolution of 30 March 1951 and declares that the convening of a Constituent Assembly as recommended by the General Council of the "All Jammu and Kashmir National Conference" and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the Assembly, would not constitute a disposition of the State in accordance with the above principles ;

Decides to continue its consideration of the dispute.

Mandate For Jarring

Resolution (S/3793) adopted by the Security Council at its 774th meeting on 21 February, 1957.

The Security Council :

Recalling its resolution of 24 January 1957, its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question ;

1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan ; to visit the sub-continent for this purpose ; and to report to the Security Council not later than 15 April 1957.

2. *Invites* the Governments of India and Pakistan to cooperate with him in the performance of these functions : and

3. *Requests* the Secretary-General and the United Nations Representative for India and Pakistan to render such assistance as he may request.

The Jarring Report

Text of the report of Mr. Gunnar Jarring to the Security Council on the Kashmir question submitted on 29 April 1957.

I

"1. On 21 February 1957, at its 774th meeting, the Security

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Council adopted a resolution (S/3793) by which it requested its President for the month of February 1957, the Representative of Sweden to examine with the Governments of India and Pakistan any proposals which, in his opinion, were likely to contribute towards the settlement of the India-Pakistan dispute having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan. He was further requested to visit the sub-continent for this purpose and to report to the Security Council not later than 15 April, 1957.

2. In pursuance of this resolution I proceeded to the sub-continent. I arrived in Karachi on 14 March 1957.

3. Discussions were held with the Government of Pakistan from 15 to 20 March, and again between 2 and 5 April ; with the Government of India between 24 and 28 March and again between 6 and 9 April. Before departing from the sub-continent another conversation with the Government of Pakistan took place on 10 April. I departed from Karachi on 11 April.

4. The principal participants in these discussions were the Prime Minister of Pakistan, Mr. H. S. Suhrawardy, the Minister for Foreign Affairs and Commonwealth Relations, Mr. Malik Firoz Khan Noon, the Foreign Secretary, Mr. M. S. A. Baig and Mr. Din Mohammed, Adviser on Kashmir Affairs. The Government of India were represented by the Prime Minister and Minister for External Affairs, Shri Jawaharlal Nehru, the Minister without Portfolio, Shri V. K. Krishna Menon, the Secretary-General of the Ministry of External Affairs, Shri N. R. Pillai and the Commonwealth Secretary Shri M. J. Desai.

5. In accordance with the first operative part of the Council's resolution, conversations were held exclusively with the representatives of the Governments of India and Pakistan.

6. It is a pleasure for me to report that the co-operation of the two Governments, envisaged in the second operative part of the Security Council resolution, has been complete in all respects. Our conversations took place in an atmosphere of complete frankness and cordiality.

7. In pursuance of the third operative paragraph of the resolution, the Secretary-General of the United Nations placed at my disposal the services of Mr. J. F. Engers of the Department of Political and Security Council Affairs, and Miss H. Platz of the Office of the Secretary-General. I also wish to acknowledge valuable information received from the United Nations Representative for India and Pakistan.

II

8. During the last debate in the Security Council, the Representative of Pakistan had stated that his country recognized "no international obligations with regard to the State of Jammu and Kashmir, except those she had voluntarily accepted—in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949".[1] For his part, the Representative of India declared that these two UNCIP resolutions were the only ones which bound his Government[2].

1. S-PV 761 P 37 2. S-PV 763 P 33

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9. In view of these declarations I felt it appropriate to explore what was impeding the full implementation of these resolutions. My efforts were, therefore, from the beginning directed toward the finding of a solution for the problems that had arisen in connection with these two resolutions.

10. The resolution of January 5, 1949 envisages the holding of a free and impartial plebiscite to decide on the question of the accession of the State of Jammu and Kashmir to India or Pakistan. On exploring this question of a plebiscite I was aware of the grave problems that might arise in connection with and as a result of a plebiscite.

11. Therefore I felt it incumbent on me to devise ways and means by which these difficulties could be met or at least be substantially mitigated.

12. Consequently, I made a number of suggestions to this end to both Governments which, for different reasons, however, did not prove to be mutually acceptable.

13. During our conversations the Government of India laid particular emphasis on the fact that, in their view, two factors stood in the way of implementation of the two UNCIP resolutions. The first of these was that Part I of the resolution of August 13, 1948, and in particular section B and E, had, in their view, not been implemented by the Government of Pakistan. For that reason, it was in their submission, premature to discuss the implementation of part II and III of that resolution, or of the resolution of January 5 1949. The second of these impediments, which concerned rather Part II of the first resolution, was that the Govenment of India, which had brought the case before the Security Council on January 1, 1948 felt aggrieved that the Council had so far not expressed itself on the question of what in their view was aggression committed by Pakistan on India. In their view, it was incumbent on the Council to express itself on this question and equally incumbent on Pakistan 'to vacate the aggression.'' It was argued that prior to the fulfilment of these requirements on the part of the Security Council and on the part of Pakistan the commitments of India under the resolution could not reach the operative stage.

14. I explained to the Government of India that the Security Council had properly taken cognizance of their complaint, and that it was not for me to express myself on the question whether its resolutions, on the matter had been adequate or not. I pointed out that regardless of the merits of the present position taken by their Government, it could not be overlooked that they had accepted the two UNCIP resolutions.

15. The Government of Pakistan, on their part, in conversations with me maintained that Part I of the first resolution had been implemented in good faith and in full by them, and that the time had come to proceed to the implementation of Part II.

16. Under the circumstance I decided that it might be appropriate to approach first the question of the implementation of Part I of the first UNCIP resolution, as I had been given to understand that this was the primary impediment to the implementation of the resolution. It was my impression that in the presentation of their views substantial weight was given by the Government of India to the absence of "an atmosphere favourable to the promotion of further negotiations" as envisaged in section

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E of that part of the first resolution. Another point which was repeatedly stressed by the Government of India was that the military *status quo* envisaged in part B of the same section did, in their view, not obtain owing to the policies pursued by the Government of Pakistan.

17. In order to break the deadlock concerning Part I, I enquired of the two Governments if they would be prepared to submit the question of whether Part I had been implemented or not to arbitration. In substance my suggestion to the two Governments did not envisage simple arbitration, but the arbitrator or arbitrators would also be empowered, in case they found that the implementation had been incomplete, to indicate to the parties which measures should be taken to arrive at a full implementation. It was also envisaged that in the latter case, after a given time limit, the arbitrator or arbitrators would determine whether the given indications had been followed and implementation did obtain.

18. Being aware of the earlier negative attitude of the Government of India on the question of arbitration with relation to the Kashmir problem as a whole, I made it a point to explain to them that I was not suggesting anything of that nature, and that what I was proposing, while termed arbitration, in all likelihood would be more in the nature of a determination of certain facts which, in their view, were incontrovertible. In addition, the procedure suggested might lead to an improvement in India-Pakistan relations in general, a development which I assumed could not be unwelcome to either of the two countries.

19. While the Government of Pakistan, after a certain hesitation, fell in with my suggestion in principle, the Government of India, however did not feel that arbitration, as outlined by me, would be appropriate. They explained that, while they were not against the principle of arbitration as a method of conciliation and had, indeed, agreed to this procedure to arrive at a solution of certain other problems outstanding between their country and Pakistan, they felt that the issues in dispute were not suitable for arbitration, because such procedure would be inconsistent with the sovereignty of Jammu and Kashmir and the rights and obligations of the Union of India in respect of this territory. They were, furthermore, apprehensive that arbitration even on an isolated part of the resolution might be interpreted as indicating that Pakistan had a *locus standi* in the question.

III

20. In dealing with the problem under discussion as extensively as I have during the period just ended, I could not fail to take note of the concern expressed in connection with the changing political, economic and strategic factors surrounding the whole of the Kashmir question, together with the changing pattern of power relations in West and South Asia.

21. The Council will, furthermore, be aware of the fact that the implementation of international agreements of an *ad, hoc* character, which has not been achieved fairly speedily, may become progressively more difficult because the situation with which they were to cope has tended to change.

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IV

22. While I feel unable to report to the Council any concrete proposals which, in my opinion, at this time are likely to contribute towards a settlement of the dispute, as I was requested to do under the terms of reference of the Council's resolution of February 21 1957, (S/3793), my examination of the situation as it obtains at present would indicate that, despite the present deadlock, both parties are still desirous of finding a solution of the problem. In this connection the Council may wish to take note of expressions of sincere willingness to cooperate with the United Nations in the finding of a peaceful solution, which I received from both Governments.

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Section XIV

The Graham Report

The debate on Jarring's report began in the Security Council on September 24, 1957 with an opening address by the Pakistan Foreign Minister, Malik Firoz Khan Noon, accusing India of "mala-fide action in evading plebiscite in Kashmir and holding Indian Muslims as "hostages" for the purpose.

He urged the Security Council to effect demilitarization of the State, proceeding from its resolution of December 23, 1952. Pakistan, on her side, was prepared to withdraw every soldier from its side of the cease-fire line, if an adequate U. N. Force was stationed there. He said that India's intransigence and threat to peace by her Kashmir policy should invoke provisions of Chapter VII of the U.N. Charter. Malik Noon, further maintained, that the plebiscite issue was not a religious issue and enjoyed the support of many Hindus in Kashmir and India and mentioned Puran Lal Lakhanpal of Delhi and Prem Nath Bazaz of Kashmir who had undergone "suffering for their advocacy of plebiscite."

Krishna Menon, the Indian Defence Minister, emphatically denied the Pakistan charge. India, he said, stood engaged by the two UNCIP resolutions and the Security Council resolution of January 17, 1948. Her engagements, however, began after the "commitment" of Pakistan first to withdraw her troops and vacate her "aggressionwas carried out." Moreover the changing circumstances could also not be overlooked.

The Indian delegate charged Pakistan with "aiding and abetting subversive movements in India" and having launched a new aggression in Kashmir by engineering Bomb explosions in the State, twenty-three of which had been reported between June 15 and October 3, 1957. He alleged Malik Noon was linked with this and cited the recently opened trial under the Kashmir Enemy Agents Ordinance in Srinagar.*

Menon rejected the Pakistan suggestion for a U.N. force and said Noon's offer did not mean much as the main Pakistan cantonments were within four to hundred miles of Kashmir. He wanted immediate vacation of aggression. India's earlier proposals regarding quantum of troops no longer held good. The discussions with Dr. Graham in the past were only of an exploratory character.

The main discussion revealed growing support for the idea of a U.N. force for Kashmir and the need for demilitarization of the State. The Soviet Union, however, remained firmly opposed to both, considering the Kashmir question having been decided by the people and threatened to veto a resolution sponsored by Australia, Colombia, Philippines, the U.K.

*The acused in the case were discharged in 1954 as the Government decided to withdraw the case.

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and the U.S.A. on November 16, 1957, instructing the U.N. Representative to visit India and Pakistan to facilitate settlement of the Kashmir dispute and emphasising the importance of demilitarization of the State for the purpose. A modified draft was subsequently adopted on December 2, 1957 to avoid Soviet veto. During the debate Dr. Jarring suggested reference to International Court of Justice for opinion on Article 1 of the Indian Constitution. The proposal, however, made little headway.

The U. N. Representative, Dr. Graham, after discussions with the two Governments from January 12 to February 15, 1958, submitted on March 28, his report (S/3948) to the Security Council informing it of Pakistan's acceptance and India's rejection of all the five proposals put forth by him. Besides proposing an India-Pakistan Prime Minister's Conference under his auspices, Dr. Graham had suggested consideration to be given to the stationing of a U.N. force on the Pakistan side of her border with the State of Jammu and Kashmir, and undertaking a prompt study in regard to the administration of the evacuated territory. His other proposals were; early agreement on interpretation of part III of the UNCIP resolution of August 13, 1948 and provisions of the Commission's resolution of January 5, 1949 dealing with plebiscite, calling attention to the Joint Communique of August 20, 1953; a renewed declaration in line with the Security Council resolution of January 17 1948 and the two UNCIP resolutions for creating an atmosphere favourable for negotiations; and affirmation by the two parties of their will to respect the cease-fire. India considered these as by-passing the preliminary iasue of aggression and placing "the aggressor and the aggressed on the same footing."

As on his earlier visits, Dr. Graham was greeted with hostile demonstrations in India and a highly critical Press. His mission was, however, welcomed by the End-Kashmir Dispute Committee of India which also criticized India's rejection of his proposals.

Directions for Graham Mission

Text of the resolution adopted by the Security Council at its 808th meeting on 2 December 1957.

The Security Council :

Having received and noted with appreciation the report of Mr. Gunnar V. Jarring the Representative of Sweden, on the mission undertaken by him pursuant to the Security Council resolution of 21 February 1957;

Expressing its thanks to Mr. Jarring for the care and ability with which he has carried out his mission;

Observing with appreciation the expressions made by both parties of sincere willingness to cooperate with the United Nations in finding a peaceful solution;

Observing further that the Governments of India and Pakistan recognize and accept the provisions of its resolution dated 17 January 1948 and of the resolutions of the Uuited Nations Commission for India and

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Pakistan dated 13 August 1948 and 5 January 1949, which envisage in accordance with their terms the determination of the future status of the State of Jammu and Kashmir in accordance with the will of the people through the democratic method of a free and impartial plebiscite, and that Mr. Jarring felt it appropriate to explore what was impeding their full implementation ;

Concerned over the lack of progress towards a settlement of the dispute which his report manifests ;

Considering the importance which it has attached to demilitarization of the State of Jammu and Kashmir as one of the steps towards settlement ;

Recalling its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question ;

1. *Requests* the Government of India and the Government of Pakistan to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation and to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations :

2. *Requests* the United Nations representative for India and Pakistan to make any recommendations to the parties for further appropriate action with a view to making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, and towards a peaceful settlement;

3. *Authorizes* the United Nations representative to visit the subcontinent for these purposes ; and

4. *Instructs* the United Nations representative to report to the Security Council on his efforts as soon as possible.

———

Graham Report

Text of the report of the United Nations Representative for India and Pakistan to the Security Council (S/3984)

28 March 1958

I

1. On December 2, 1957, at its 808th meeting, the Security Council adopted a resolution (S/3922) by which it requested the U. N. Representative for India and Pakistan to make recommendations to the parties for further appropriate action with a view to making progress towards the implementation of the resolutions of the U. N. Commission for India and Pakistan of August 13, 1948, and January 5, 1949, and toward a peaceful settlement. He was further authorized to visit the sub-continent for these purposes and instructed to report on his efforts to the Security Council as soon as possible.

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2. In pursuance of this resolution, I proceeded to the sub-continent. I arrived in New Delhi on January 12, 1958,

3. Discussions were held with the Government of India between January 12 and 17, between January 23 and February 1, and again between February 7 and 13; with the Government of Pakistan between January 17 and 23, between February 1 and 7, and again between February 13 and 15. I departed from Karachi on February 15.

4. The principal participants in these discussions for the Government of India were the Prime Minister and Minister for External Affairs, Mr. Jawaharlal Nehru, the Minister of Defence, Mr. V. K. Krishna Menon and the Commonwealth Secretary, Mr. M. J. Desai. The Government of Pakistan were represented by the Prime Minister and Minister for Foreign Affairs and Commonwealth Relations, Mr. Firoz Khan Noon, the Foreign Secretary Mr. M. S. A. Baig, and the Adviser on Kashmir Affairs, Mr. Din Mohammed.

5. The two Governments extended to me their complete co-operation. Our conversations were marked both by frankness and cordiality.

6. The Secretary-General of the United Nations placed at my disposal the services of Mr. J. F. Engers of the Department of Political and Security Council Affairs; of Mr. Elmore Jackson as special consultant; and of Mrs. Daisy F. Lippmer of the Department of General Services.

II

7. In the debates in the Security Council, held between September and December, 1957, the Governments of India and Pakistan affirmed that they continued to be engaged by the resolutions of U.N.C.I.P. of August 13, 1948, and January 5, 1949.

8. In my initial discussion with the two Governments I addressed myself to certain obstacles which appeared to stand in the way of progress in the implementation of these two resolutions. Foremost among these was the procedure for the withdrawal of the Pakistan troops and the withdrawal of the bulk of the Indian Army, as provided for in Part II of the resolution of August 13, 1948 of the UNCIP. I, therefore, embarked on discussions with the two Governments to ascertain their views on how these difficulties might be overcome. In following this approach I was, of course, fully aware of the fact that the Government of India had not accepted the resolution of the Security Council of 2 December, 1957, and of their position regarding the sequence of actions contemplated in the resolution of 13 August, 1948, but I believed that they would be interested in finding ways and means to facilitate the implementation of these elements which were standing in the way of the withdrawal of the Pakistan troops from the State.

9. In my conversations with the two Governments I could not fail to note that while the objective envisaged in Part II A, namely the withdrawal of Pakistan troops from the State, was clear enough, the method and machinery to be pursued to this end would be likely to create its own problems.

10. As I envisaged the situation that would obtain after the withdrawal

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of Pakistan troops. I foresaw, as provided by the first resolution of the UNCIP, an area administered by the local authorities under the surveillance of the United Nations Commission, or, as it had now developed, of the successor organ, the United Nations Representative for India and Pakistan.

11. It should be noted that the position of this territory is of a peculiar nature. Its sovereignty rests with the State of Jammu and Kashmir but the full exercise of that sovereignty would be limited under the resolution by (a) the surveillance of a United Nations organ, and (b) the commitment by India that their forces would remain within the cease-fire line.

12. Furthermore, the degree of United Nations concern with the administration was left undetermined by the Commission by using the term "surveillance". Such problems as the logistics, economics and supply, to mention only a few, have never been fully considered, though they could hardly be expected to be met satisfactorily without due preparation.

13. Thus it would appear that the execution of section A in Part II might create more serious difficulties than were foreseen at the time the parties agreed to that clause. The determination as to who are the "local authorities," might not be an easy matter. Whether the United Nations Representative would be able to reconstitute the *status quo* which had obtained some ten years ago, would seem to be doubtful.

14. I, therefore, came to the conclusion that prior negotiation with the parties on these problems would not only be essential but imperative. Otherwise the evacuated territory might be left in an unsettled condition.

III

15. Since I was aware that the Government of India were concerned about the security of the evacuated territory, and more particularly, were apprehensive that the Pakistan Army, after its withdrawal, might return to the territory, I felt it my duty to give serious consideration to ways and means to allay this concern on the part of India. I, therefore, proposed that the feasibility of placing United Nations force on the Pakistan side of the Pakistan and Jammu and Kashmir border should be explored. If this conception in principle were to meet with approval, agreement might be sought from the Pakistan Government for receiving such a force and negotiations might be initiated within the United Nations on the size, composition and functioning of such a force.

16. Other suggestions were also discussed informally with the two Governments. In view of the urgency however, of what I considered the most immediate requirement of the situation, namely, a resumption of direct negotiations—under United Nations auspices--I decided to make my formal proposals with as little detail as possible.

IV

17. In order to create the proper framework for these negotiations, I asked the two Governments to give prior consideration to two undertakings which I considered as essential prerequisites for their success.

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18. In the first place, I suggested that the two Governments should consider the possibility of a renewed declaration in line with the resolution of the Security Council of 17 January, 1948 and of Part I of the resolution of 13 August, 1948, of the UNCIP, under which they would appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to further negotiations and in which they themselves would undertake to refrain from statements and actions which would aggravate the situation.

19. In the second place, I proposed that the two Governments reaffirm that they would respect the cease-fire line and that they would not cross or seek to cross the cease-fire line on the ground or in the air, as established in the cease-fire agreement, ratified by the Governments of India and Pakistan, respectively, on 29 and 30 July, 1949.

20. Thus, on the day of my departure from the sub-continent on 15 February, 1958, I submitted to the representatives of both Governments the following recommendations : —

I. That they should consider the possibility of a renewed declaration in line with the 17 January, 1948 resolution of the Security Council and of Part I of the 13 August, 1948 resolution under which they appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to further negotiations and in which they themselves undertake to refrain from statements and actions which would aggravate the situation.

II. That they reaffirm that they will respect the integrity of the cease-fire line and that they will not cross or seek to cross the cease-fire line on the ground or in the air, thus further assisting in creating a more favourable atmosphere for negotiations.

III. The withdrawal of the Pakistan troops from the State of Jammu and Kashmir is provided for in Part II of the August 13, 1948 resolution. Pending a final solution, the territory evacuated by the Pakistan troops is to be administered by the local authorities under the surveillance of the Commission. Part II of this resolution also provides for the withdrawal of the bulk of the Indian forces from the State in stages to be agreed upon with the Commission.

In an effort to speed the implementation of these actions provided for in part II, the U.N. Representative is suggesting that a prompt study be undertaken, under his auspices, of how the territory evacuated by the Pakistan troops could, pending a final solution, be administered in accordance with the provision of the resolution.

With a view to increasing the Security of the area to be evacuated the U. N. Representative recommends that consideration be given of the possibility of the stationing of a U. N. force on the Pakistan side of the Pakistan and Jammu and Kashmir border, following the withdrawal of the Pakistan army from the State.

IV. If progress is to be made in the settlement of the "India-Pakistan question" there is need for an early agreement between the two Governments on the interpretation that should be placed on part III of August 13 resolution and those parts of the January 5 resolution which provide for a plebiscite. In this connection, The U. N. Representative

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would call attention to the communique of the Prime Ministers of India and Pakistan issued following their meeting in New Delhi in August 1953, which recognized that a plebiscite had been agreed to and expressed the opinion that a solution should be sought "causing the least disturbance to the life of the people of the State".

The U.N. Representative will be considering with the two Governments the means and timing under which agreement might be sought on these questions.

V. The U.N. Representative, believing that further negotiations on the questions which he has been considering with the Governments of India and Pakistan would be useful, and believing that it would facilitate progress if these negotiations could be undertaken at the highest level, proposes to the two Governments that a Prime Ministers' conference be held under his auspices in the early spring.

If the latter recommendation would not be agreeable to either or both Governments, the United Nations Representative recommends to the parties that they keep the general proposal, or any reasonable variation thereof, under consideration and that such a conference be held at the earliest practicable date.

21. The Government of Pakistan agreed to these recommendations in principle. They informed me that they were willing to make a renewed declaration as suggested by me and that they were prepared to reaffirm that they would respect the integrity of the cease-fire line.

22. They informed me further that they were prepared to withdraw the Pakistan troops from the State of Jammu and Kashmir simultaneously with the withdrawal of the bulk of the Indian forces from the State in stages to be agreed upon with the Commission, as provided in Part II of August 13, 1948 resolution.

23. They also agreed with my recommendation that a prompt study be undertaken under the auspices of the UNCIP of how the territory evacuated by the Pakistan troops could, pending a final solution, be administered by the local authorities in accordance with the provisions of the resolution.

24. The Government of Pakistan also informed me that they were agreeable to my recommendation to consider the possibility of the stationing of a United Nations force on the Pakistan side of the Pakistan Jammu and Kashmir border, following the withdrawal of the Pakistan Army from the State.

25. In the matter of the interpretation that should be placed on Part III of August 13 resolution, and those parts of Janaury 5, 1949 resolution which provide for a plebiscite the Government of Pakistan indicated that they were prepared to abide by the terms of the Prime Ministers' communique of August 1953.

26. Finally the Government of Pakistan agreed to my proposal of a conference at the Prime Ministers' level, or any reasonable variation thereof, to be held under my auspices, adding that they would hope that this conference be held as soon as possible.

27. The Government of India declared themselves unable to agree to my recomendations. They based their position on the ground that my

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recommendations were made without regard to failure to implement the Security Council resolution of January 17, 1948 and Clauses B and E of part I of the UNCIP resolution of August 13, 1948 for which they held Pakistan responsible. In their view the sole onus of performance was on Pakistan and the United Nations which both had the responsibility and the capacity for taking steps towards a peaceful approach to the situation and for making a contribution to resolving the difficulties between India and Pakistan.

28. While, therefore, the inability of India to accept my recommendations primarily followed from their contention that my approach was not feasible since, in their veiw, it tended to by-pass the implementation of what they considered to be the preliminary question, they also informed me that they did not look with favour on the substance of my recommendations.

29. Thus, they felt that a new declaration regarding a peaceful atmosphere and the cease-fire line might denote a displacement of the previous engagements. They further contended that such a declaration would imply that Pakistan had not violated their previous engagements and that the consequences of them would thereby stand condoned.

30. The Government of India could also not see their way to accept the study I had recommended in my third recommendation as they felt that it would tend to by-pass and evade what they considered to be the main issue, namely, the illegal occupation of Indian Union territory by Pakistan. In their view that territory was an integral and inseparable part of the Union of India and the recommendation was based on a misconception that Jammu and Kashmir were a no-man's land. Further, the study, in their view, would not be relevant since according to the UNCIP resolution and the assurances given on behalf of the Security Council to the Government of India, they alone, with the United Nations, were concerned in this matter and Pakistan would not seem to have any place whatsoever in these arrangements.

31. With regard to the recommendation on the stationing of a United Nations force on the Pakistan side of Jammu and Kashmir border, the Government of India were taking cognizance of a concern of the United Nations Representative in this matter which they understood to be conditioned by the previous conduct of Pakistan. They would, on their part, however, consider it as highly improper and indeed an unfriendly act to promote a suggestion which would involve the stationing of foreign troops in a neighbouring sovereign State with whom they desired nothing but the most friendly relations. Since, however, this was a matter for decision by the Government of Pakistan in their sovereign competence, they would not be in a position to object to this proposal, though they would regret it.

32. With regard to recommendation IV, the Government of India informed me that they regretted that they could not enter into any such discussions in view of their preliminary objections.

33. Finally, the Government of India declared themselves unable to accept my last recommendation since it would, in their view, place the aggressor and the aggressed on the same footing. They, therefore, considered it contrary to the Charter and all considerations of international ethics and equity.

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VI

34. I should, however, inform the Council that the Government of India, at the same time as they declared themselves unable to accept my recommendations, also informed me that they have been and are anxious to promote and maintain peaceful relations with Pakistan. They stated that they firmly held the view and belief that there should be a constructive and peaceful approach to every problem and that they firmly adhered to their determination to pursue paths of peace, while placing their faith in the United Nations and its Charter.

35. In keeping with this spirit expressed by India, which I know is shared by Pakistan, I still express to the Council the hope that the two Governments will keep under consideration the proposal for a high-level conference. I trust that, in their further consideration, they will find it possible promptly themselves to make, without prejudice to their respective positions on the Kashmir question, preparations for holding, within the framework of the Charter of the United Nations, such a conference at the earliest practicable date, covering questions of time, place, auspices and agenda. The agenda, as the parties might choose, might include the basic differences which the parties find to stand in the way of a settlement and such other matters as the parties might find would contribute to "progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement."

VII

36. However wide the differences and deep the distrust, and however bad the situation in the opposite views of each other's position, no situation is completely and forever beyond the redemptive power of the development of reciprocal faith and the creative interchange of views and proposals for a peaceful settlement as alternatives to the deepening differences in an age of unprecedented peril and hope. Better than talking at long distances across the sub-continent is, on occasion, to talk directly to each other in a conference at the highest possible level. The holding of well-prepared direct talks with the desire for a settlement is more than talk, it is itself an act of potentially creative faith which might lead to steps for a fair and peaceful settlement.

37. These unsettled and unsettling differences between two great peoples have long corroded their relations, continuously drain off their resources, and cut deeply into their hopeful programmes for education, health, production and welfare. Instead of continuing endlessly the corrosive polemics of all blame on one side and the other, the conference might, with sound preparation and resolute will, work out present steps toward a settlement; set in motion a higher release of the productive capacities of the people; and give an effective impetus to the world's flood tide of the yearning of the people for freedom and peace amid the hazards and hopes of this age.

38. In this age, any situation engaged by UN-sponsord resolutions cannot be isolated from the dynamic currents of the world's concern even by the highest mountains, whose pinnacles rise in incomparable grandeur from the topmost "roof of the world". Though bright rays of light shine

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through the over-hanging clouds of our time, thermonuclear power casts its lengthening shadows across the earth, darkening the homes and hopes of Man. All alternative to the sudden extinction of the human race and the precious treasures of the heritage from all peoples in all ages, there rises above the authentic fears, despair and tumult of the times the unconquerable aspiration of the human spirit for the sublimation of thermonuclear power in the cause of peace and the equal freedom, dignity and opportunity of all people, Eest and West.

40. The light of faith and the fires of the inner spirit, which, in dark times in ages past, were lighted among Asian, African Mediterranean people for people in all lands, have shone most nobly in our times in the heroic struggles, liberation and universal aspirations of the people of the historic sub-continent for a freer and fairer life for all With their two-fold heritage of faith in the Moral Sovereignty, which undergirds the nature of Man and the universe, and with a reverance for life challenging the violent trends of the atomic era, those peoples, in the succession of their prophetic leadership and great example, may again give a fresh lift to the humane spirit of people everywhere, The peoples of the world might in high response begin again in these shadowed years to transform with high faith and goodwill the potential forces of bitterness, hate and destruction, step by step through the United Nations, toward the way of creative co-operation, economic, social and cultural development, responsible disarmament, self-determination, equal justice under law, and peace for all peoples on the earth as the God-given home of the family of Man.

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Section XV

Through Security Council To Sheikh Abdullah

After a lapse of four years the Kashmir question was raised again in the Security Council on February 1, 1962. Pakistan delegate requested consideration of the question in a letter addressed to the President of the Council on January 11. India opposed the request in a letter on January 16, but Pakistan pressed for the meeting in another communication on January 29, and the Council was accordingly convened on February 1.

Pakistan delegate Sir Zafrulla Khan, in his address, drew the attention of the Council to recent statements made by responsible publicmen and Cabinet Ministers in India posing a threat of armed action against Kashmir and Pakistan. Congress President, Mr. Sanjiva Reddy while addressing the Patna Session of the ruling Party on January 4, 1962, had made a plea "for liberation of areas under Pakistan occupation in Kashmir and expressed the hope that the Government of India would give relief to that part in a short time". Sir Zafrulla also quoted Indian Defence Minister, Mr. V. K. Menon, having publicly stated that India would 'take steps to end Chinese and Pakistan aggression in India.'

Sir Zafrulla said that these statements reflected the existence of a serious situation. He said several attempts were made by Pakistan in pursuance of Dr. Graham's recommendation for finding solution of Kashmir dispute through direct negotiations. These attempts were made on September 15, 1959 when President Ayub Khan met Prime Minister Nehru at Delhi Airport, and again in May 1960 during the Commonwealth Premiers' conference in London, as also in September 1960 when Mr. Nehru visited Karachi and Rawalpindi. These attempts, however, failed as there was no adequate response from India. The situation in Kashmir, meanwhile, continued to cause grave concern with India persisting in severe repression of people demanding plebiscite on the one hand and going ahead with closer integration of Kashmir with India on the other.

Mr. C.S. Jha, speaking for India, emphatically denied the allegations. He gave a solemn assurance to the Council that India would not resort to use of arms to secure the vacation of Pakistani aggression in Kashmir. He said there was no urgency for the Security Council meeting. The Congress Session at Patna had unanimously adopted a resolution pledging support to Indian Government's policy of negotiated settlement of disputes between nations. He requested an adjournment of the meeting until after the Indian General elections. Soviet delegate Mr. Zorin also said that urgent convening of the Security Council on this item at this time was 'unnecessary and uncalled for.' President of the Couucil, Mr. Adlai Stevenson, thereupon, adjourned the meeting to a date after March 1, to be fixed in consultation with the parties concerned.

The Security Council resumed consideration of the India-Pakistan

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question on April 27. It held ten meetings before the Irish resolution recalling previous resolutions of the Council and urging India and Pakistan to resume direct negotiations to resolve the dispute was vetoed by the Soviet Union on June 22. The meetings were held on April 27; May 2, 3 and 4; and June 15, 19, 20, 21 and 22, 1962.

Pakistan Representative, Sir Mohd. Zafrulla Khan, in his statements, stressed the fact that both India and Pakistan had accepted the UNCIP resolutions of August 13, 1948 and January 5, 1949, stipulating future determination of Kashmir through a free and impartial plebiscite. The Government of India in a White Paper on August 10, 1948 had itself observed : 'The Government of India are firmly of the view that whatever sovereign rights reverted to these States on the lapse of Paramountcy, that is to say when the British sovereignty ceased to operate, they vest in the people and conditions must be created in every State for a free and unfettered exercise of these rights''. Governor-General of India, Lord Mountbatten had told Maharaja of Jodhpur that his idea of acceding to Pakistan was in conflict with the scheme of partition. The Government of India had also refused to recognize accession of Junagadh to Pakistan on September 15, 1947 on similar grounds.

He said India stood committed to plebiscite and steps must be taken to give the people of Kashmir an opportunity freely to decide the question of accession to India or Pakistan. As to the plea of elections to the Constituent Assembly reflecting the wishes of the people, Sir Zafrulla drew the attention of the Council to numerous statements made by Indian representatives in the Council and in Indian Parliament that the Constituent Assembly could not decide the issue of accession. Even Prime Minister Nehru was on record saying that 'it could not come in the way of absolving ourselves from international commitments in regard to plebiscite, in regard to anything.' On February 22, 1955 he told a Member in Parliament 'a question like this cannot be solved unilaterally'.

Indian Defence Minister, Mr. V.K. Krishna Menon. asserted that the 'accession of Jammu and Kashmir to India was complete and final'. There was no provision in the Indian constitution for provisional and conditional accession. Pakistan was an aggressor and India and Pakistan did not stand on equal footing in this matter. The people of Kashmir through three general elections had freely expressed their solidarity with India. The acceptance by India of the UNCIP resolutions amounted not to a commitment but an engagement. But this engagement began only after Pakistan discharged herself of a commitment to withdraw her troops from Kashmir. Pakistan, Mr. Menon said, had no *locus standi* in Kashmir. He urged the members of the Council to tell Pakistan to vacate her aggression. Pakistan alone was to blame for non-implementation of the UNCIP resolutions. India, he said, shall not take initiative in "war action". She could also not submit to mediation or arbitration. "No power except a Secession Act by Indian Parliament could cut Kashmir asunder from India".

India was supported in her contentions by Russia and Rumania. Soviet delegate, Mr. Morozov, said 'it was unrealistic to demand plebiscite and the UNCIP resolutions were not capable of mediation'. The question of holding a plebiscite in Kashmir had lapsed as conditions precedent thereto had not been fulfilled by Pakistan-namely, withdrawal of troops

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from Kashmir. The Security Council, Mr. Morozov said, "must respect the wishes of people of Kashmir which has irrevocably decided to link its fate with India." Rumania stressed the need for resolving the dispute by direct negotiations without interference by outside, particularly, imperialist powers.

Sir Zafrulla rebutted the Indian contentions by saying that no unilateral obligation was enjoined on Pakistan to withdraw her troors from Kashmir; India was required by the UNCIP resolution of August 13 1948 to withdraw the bulk of her troops. The resolution clearly stated that "when the UNCIP notifies that Pakistan nationals and tribesmen have left and the Pakistan troops are being withdrawn India agrees to begin to withdraw the bulk of her troops'. These, moreover, were just principles accepted by India and Pakistan to form the basis of a Truce Agreement to be negotiated by the two Governments in consultations with the UNCIP and to be formally published. No such Truce Agreement had so far been concluded. India had, in fact, obstructed the conclusion of the Truce Agreement by rejecting various proposals by the U. N. Representatives for the purpose. The language of the resolutions was plain and simple enough. However, if India contended otherwise, Pakistan was 'ready to refer the question to any body of international standing if the responsibility to withdraw troops begins before the drawing up of the Truce Agreement and act accordingly".

The Pakistan delagete also stated that it was a well-known and universally accepted principle of international law that a nation could not invoke its Constitution and laws to obstruct implementation of international agreements and treaties. Elections to Constituent Assembly, it had been conceded by members of the Security Council, could be no substitue for plebiscite. The Security Council had specifically stated in its resolution of March 30, 1951 that any action by the said Assembly could not mean determination of the future of the State in keeping with the principles embodied in its various resolutions on the subject and those of the UNCIP. Constituent Assembly represented but a part of the State, and a part, it was again universally accepted in law, could not take decision for the whole. The elections in the State were, moreover, nothing but farcical.

The debate in the Security Council revealed that all members favoured the issue to be resolved by direct negotiations and, except for Soviet Union and Rumania, favoured the Council adopting a resolution on the subject. Quaison Sackey of Ghana said that "in the absence of anyother basis for agreement being discovered members must accept the continued applicability of UNCIP resolutions." Mr Boland (Ireland) emphasised that "the UNCIP resolutions could not be treated as if they had ceased to exist". Patrick Dean (U. K.) opined that "Security Council has a clear duty to formulate a view." Ambassador Riad (UAR) felt that their "most important contribution could be to help the parties get together", a view which was endorsed by representatives of Chile and Venezuela also.

Russia made clear that it would veto any resolution advocating mediation : U.K., U.S.A, and Ireland held informal consultations among themselves and Irish Delegate introduced a draft resolution S/5134 at 1016th meeting of the Council on June 22, 1962 recalling earlier resolutions of the Council and urging resumption of negotiations between the

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two parties. Although specific reference to mediation was dropped in in the draft resolution Russia felt it could not accept and applied veto for the 100th time in the Council to kill it.

Voting for the resolution were : China, Chile, France, Ireland, U. K., U. S. A, and Venezuela ; against the resolution Rumania and USSR ; and abstaining Ghana and UAR.

A bitter exchange ensued between the U.S. and USSR delegates following application of the veto. Sir Zafrulla said that "if India wants to be released from its obligations it should propose as much to the Security Council and seek the advisory opinion of International Court of Justice on all these matters : the validity of accession, question of sovereignty and other questions in dispute and issues not yet determined".

No meeting of the Security Council was pressed for by Pakistan. But within six months came India-China armed conflict on the border issue resulting in serious Indian reverses and losses in NEFA. This caused India to rush for arms aid to USA and Britain. A wave of anti-China and anti Menon, commonly believed to be soft towards communists, feeling swept the nation forcing Nehru to drop him from the cabinet. Simultaneously there grew realisation among the leadership in India, of the need for Indo-Pakistan amity to prevent division of India's armed forces on two fronts. President Ayub's earlier offer of joint Defence, it may be noted, had summarily been rejected by India. Mr. Averall Harriman, U.S. President's personal Envoy, and the British Commonwealth Secretary, Mr. Sandys who visited the sub-continent in November persuaded Prime Minister Nehru to agree to direct negotiations between India and Pakistan to resolve Kashmir dispute and other outstanding issues to allay Pakistan apprehensions, which had begun to be publicly expressed by her leaders, arising out of massive arms aid to India. This resulted in joint communique of November, 29, 1962. Mr. Nehru in an unfortunate statement the next day, however, ruled out disturbance of status quo in consequence of these talks. British C'wealth Secretary who learnt of it at Karachi airport en route to London, flew back to Delhi instead and had a clarification of the statement issued by Mr. Nehru to the effect that the talks, would be circumscribed by no preconditions.

Six rounds of talks at ministerial level between Z. A. Bhutto (Pakistan) and S. Swaran Singh (India) were held between December 26, 1962 and May 16, 1963 to pave the way for a summit between President Ayub Khan and Prime Minister Nehru. The talks however, failed to result in agreement.

The first round of talks at Rawalpindi (December 26 to 29, 1962) was confined to a discussion of the preliminaries—historical aspects of the problem and stand of the two parties. The second and third rounds at Delhi (Jan. 16-20, 1963) and Karachi (Feb. 8-11) were taken up with Pakistan pressing for plebiscite as the best solution and India opposing it. In the fourth round of talks at Calcutta (March 12-14) India suggested readjustment of the cease-fire line. The Fifth round at Karachi (April 21-25) was taken up with India's protest against Pakistan's boundary agreement with China. At the sixth round in Delhi (May 14 to 16, 1963) Pakistan propssed that plebiscite may be confined to the Valley alone. It suggested that the Valley may be under international control for a year or 15 months

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and thereafter a plebiscite should be held, or the wishes of the people should be determined in some form or fashion and their future decided on that basis. This was rejected by India.

On the eve of the fifth round of talks 100 important citizens of Kashmir presented a memorandum to S. Swaran Singh and Mr. Bhutto opposing partition of the Valley and suggesting the creation of a neutralised or independent Kashmir valley including also Doda, Gulabgarh, Rajouri and Poonch which were its culural and ethnical extensions with equal access both to India and Pakistan and responsibility for its defence devolving on the U.N. This, the memorandum said, should be an interim arrangement and the final status af the area should be determined by a free andimpartial plebiscite under the auspices of the U.N. Such a solution, the memorandum added, would be welcomed by the largest section of inhabitants and cause the least dislocation of population.

The Kashmir issue lay practically dormant for another six months after the failure of Swaran Singh-Bhutto talks. Opinion in Delhi, however, continued to grow in favour of Indio-Pak rapprochement and release of Sheikh Abdullah. Bakshi Ghulam Mohd, the State Prime Minister, was asked to step aside by Mr. Nehru. Shamasuddin, one of his nominees, went ahead with steps to bring Kashmir closer to India and constituted a minority-Muslim Cabinet and ordered removal of some 100 officials (These orders were later quashed by the High Court). Shamasudin proved unequal to the task and soon there occurred an incident which paralysed the whole State Administration and gave birth to a new era in the history of Kashmir.

The incident was the disappearance on Dec. 27. 1963 from the Hazratbal Shrine of the sacred hair of Prophet Mohammed (May peace be on him). Life throughout the Valley came to a standstill. Men, women and children left their homes and surged on Srinagar wailing, demanding the recovery of the relic. They openly accused the Bakshi brothers of having engineered the theft, stoned Bakshi Abdul Rashid MP, then General Secretary of the ruling National Conference, and set aflame two cinema houses belonging to the family. A part of the building adjacent to Kothi Bagh Police station, where Bakshi Rashid took refuge was also burnt down. The incident according to popular belief, was engineered to create a law and order problem, discredit Shamasuddin and pave the way for return to power of Bakshi Ghulam Mohd or Bakshi Rashid who had been in the run for State Premiership. The relic mysteriously reappeared in the shrine on January 4.

The agitation for the recovery of the relic was conducted by an Action Committee formed by G.M. Karra and G.M. Shah and headed after their arrest by Maulvi Farooq. The Committee demanded release of Sheikh Abdullah and withdrawal of three important cases—The Kashmir Bomb case (instituted in 1956), the Hazratbal case (begun in 1958) and the Kashmir Conspiracy Case (begun in 1958) involving top political workers and leaders of Kashmir. Later it also demanded a plebiscite to decide the accession question. Maulana Saeed was the guiding spirit of the movement.

The Security Council met again on February 3, 1964 to resume consideration of the India-Pakistan question. Seven meetings were held between February 3 and 17, and two on March 17 and 20 when it

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adjourned to meet again on May 18. The discussion ended in a summation by the President of the Council. Most members favoured adjournment of the debate *sine die* to let new trends for settlement take proper course. Sheikh Abdullah who had been released on April 8, was invited by Nehru to Delhi as his guest and was extended invitation by President Ayub Khan to visit Pakistan for discussions. Indian Prime Minister, Mr. Nehru, also favoured his going to Pakistan.

Important points made by Pakistan and India during the 1964 debate were as follows. Mr. Z. A. Bhutto, Pakistan Foreign Minister, said that Kashmir was in revolt against India, and killing of Muslims in Calcutta and Jubbalpur had caused large-scale migrations of Indian Muslims to Pakistan. M. C. Chaggla (India) charged Pakistan instead with failure to protect minorities in East Pakistan and claimed that Kashmir demonstrations were directed against the local Government and not the Centre. Indian representative reiterated India's stand that Kashmir was an integral part of India, and that UNCIP resolutions had become obsolete. Constitutional changes to bring Kashmir closer to India were an internal affair of India and Pakistan had no right to complain.

Pakistan Foreign Minister, Mr. Bhutto, replied that the UNCIP resolutions constituted 'an international agreement, vesting the people of Kashmir with a juridical right to exercise their basic right to plebiscite to determine the accession of the State', apart from the obligations assumed thereunder by India and Pakistan. 'It follows that these resolutions cannot be abrogated except by the agreement of India, Pakistan, and the U. N. and the people of Jammu and Kashmir'', he asserted.

Mr. Bhutto said that if the resolutions were to be treated as obsolete, even the cease-fire which formed part of these resolutions would become obsolete. There did not even exist a Truce Agreement between India and Pakistan. 'A declaration by either party that the agreement embodied in the UNCIP resolutions is obsolete does not deserve to be given any consideration unless that Party is understood to be denouncing the cease-fire also and contemplating a resumption of hostilities', he asserted.

Mr. Bhutto pointed out that some 30 nations of the world who had served on the Security Council had supported the UNCIP resolutions. In recent weeks China had pledged support to a solution based on the wishes of people of Kashmir. Iraq, Ceylon, Philippines and Indonesia had also urged settlement in accordance with the wishes of of people of Kashmir and other provisions of U.N. resolutions. It was not West alone but most nations of Asia and Africa as well. Among these who had recently reiterated suppot to Kashmiris, right of self-determination were : Morocco, Ivory coast, Nigeria, Sierra Leone Guinea, Senegal, Sudan, Somalia Algiers, Turkey, Iran, Syria, Jordan, Lebanon and Saudi Arabia.

Sheikh Abdullah left for Rawalpindi on May 24, 1964. Mirza Mohd Afzal Beg and Maulana Masuodi were among the 12-man party which flew in a special PIA plane as guests of Pakistan Government.

Prime Minister Nehru in his talks with Sheikh Abdullah and Mirza Mohd Afzal Beg had said *that "he was willing to re-open the whole question and reverse policy on Kashmir to reach an honourable settlement of the

* Mirza Beg in an interview with the auther.

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dispute with Pakistan". "Various solutions of the dispute were talked about in general terms but no preferences for any particular solutions were indicated."* Sheikh Abdullah succeeded in securing President Ayub's accord to a meeting with Prime Minister Nehru in Delhi in June and announced it at Rawalpindi on May 26. But Mr. Nehru died of sudden illness on May 27, and the whole issue went back into cold storage once again.

Another important development during 1964. was the Rumanian support to the right of self-determination of people of Kashmir. In a Joint Communique on October 15, President Mohd. Ayub Khan and the Rumanian Prime Minister, Mr. I. G. Maurer, expressed 'concern over the disputes existing in different parts of the world and affirmed their belief that such disputes should be resolved through peaceful methods of settlement in accordance with the U. N. Charter and with the principles of international law and justice'. "In this context the President of Pakistan explained to the Chairman the importance of an urgent and peaceful settlement of the Kashmir dispute in the interest of world peace and well-being of people of India and Pakistan and also of Jammu and Kashmir", the communique added.

The climate for direct negotiations between India and Pakistan to resolve the Kashmir dispute continued increasingly to deteriorate after Mr. Nehru's death. Extension to Kashmir on December 21, 1964 of Art 356 and 357 of Indian constitution providing for extension of Presidential rule in Kashmir became subject of severe criticism and attack by Pakistan in communications to the Security Council. Sheikh Abdullah also came in for growing criticism in Parliament reflecting a hardening of Indian attitude on Kashmir. With Indian General elections set for January 1967, the prospects of accommodating attitude appearing on the part of Indian leadership seem show signs of becoming bleak and receding further with the passage of time.

IRELAND'S DRAFT RESOLUTION ON KASHMIR

The text of draft resolution (S/5134) moved by the representative of Ireland at 1016th meeting of the Security Council held in New York on June 22, 1962. Chile, China, France Ireland, U.K. U.S.A. and Venezuela voted in favour, and Rumania and USSR voted against the resolution while Ghana and UAR abstained. One of the negative votes being that of a permanent member the draft resolution was not adopted.

The Security Council :

Having heard statements from representatives of the Governments of India and Pakistan concerning the India-Pakistan question;

Having considered the report of the United Nations Representative for India and Pakistan, Mr. Frank P. Graham;

Expressing its best thanks to Mr. Graham for his efforts;

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Noting with satisfaction the pledges made by the two parties to the effect that their Governments will not resort to force in settling this question,

Conscious of the responsibility of the Security Council under the Charter for helping the parties to reach a peaceful solution of this question

1. *Reminds* both parties of the principles contained in its resolution of 17 January 1948 and in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949 ;

2. *Urges* the Governments of India and Pakistan to enter into negotiations on the question at the earliest convenient time with a view to its ultimate settlement in accordance with Article 33 and other relevant provisions of the Charter of the United Nations ;

3. *Appeals* to the two Governments to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of negotiations ;

4. *Urges* the Government of India and the Government of Pakistan to refrain from making any statement, or taking any action, which may aggravate the situation,

Requests the Secretary-General to provide the two Governments with such services as they may request for the purpose of carrying out the terms of this resolution.

President Ayub's Statement on India-China Conflict

(*Issued in Rawalpindi on November 5, 1962*)

"I have held lengthy discussions with appropriate experts and advisers over the situation that has arisen through the recent conflict between our two neighbours, China and India, and its repercussions on our security and relationships.

I have also received communications on the subject from the President of the United States, the Prime Minister of the United Kingdom and the Prime Minister of India. Replies to them are under preparation and will be sent in due course giving our view of the situation.

Broadly speaking we are seriously disturbed that the differences between India and China have erupted into an armed conflict. However, we believe that the scope of this conflict, because of the terrain over which it is being waged, can perforce be limited. If it were otherwise then the contestants would have started it with a considerable campaigning period ahead of them. It was no time to start it in October when weather conditions will progressively bring military operations to a halt.

However unfortunate this situation may be, we hope that our two neighbours will be able to settle their problem peacefully and amicably.

Our policy has been based on peace at large, specially peace with our neighbours. Unfortunately we have so far failed to achieve this with our neighbour India through her unwillingness to reach an equitable and

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honourable settlement over Kashmir. Because of this we are both wasting resources on military peparations. These resources are sorely needed for amelioration of conditions of our people. I hope it is still not too late for India to realise the virtues that will follow this settlement and the resultant benefits that will accrue to both countries. For one thing, we shall be free from anxiety from each other and that by itself will be a very big gain.

From all accounts a large amount of military equipment is being rushed to India from the United States, the United Kingdom and perhaps elsewhere. For one thing it may have the effect of enlarging and prolonging the conflict between China and India and secondly add to the serious concern already existing in the mind of our people that these weapons may well be used against them in the absence of an overall settlement with India".

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JOINT COMMUNIQUE ON INDIA-PAK. TALKS ON KASHMIR

(*Issued simultaneously in Rawalpindi and New Delhi on Nov. 29. 1962.*)

"The President of Pakistan and the Prime Minister of India have agreed that a renewed effort should be made to resolve the outstanding differences between their two countries on Kashmir and other related matters so as to enable India and Pakistan to live side by side in peace and friendship.

In consequence, they have decided to start discussions at an early date with the object of reaching an honourable and equitable settlement.

These will be conducted initially at the Ministrial level. At the appropriate stage direct talks will be held between Mr. Nehru and President Ayub."

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Bhutto's Statement on Kashmir Talks and Allied Matters

(*Text of portion of speech made by Pakistan Foreign Minister Mr. Z.A. Bhutto, in the National Assembly of Pakistan on July 24, 1963 dealing with Kashmir talks, and concerned matters.*)

"I have now, Sir, mentioned the important considerations that had proceeded since the October crisis. We had said, when we agreed to have negotiations with India over the Kashmir problem, that it was necessary for the Western Powers to link up military assistance to India with an honourable settlement of Kashmir Now this should not be misunderstood, because this was a factual, moral and a righteous plea. It was not that we were trying to take advantage of the situation. But we were, in terms of real politics, bringing forth a request which would have rendered positive and substantial results, and perhaps there might have been a settlement of the Kashmir problem had the question of military

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assistance to India been linked up with an honourable and equitable settlement of the Kashmir problem. We were not linking up our problems and our disputes with the problems and disputes of India or another country. All that we were doing was that we were trying to link up, as history has always linked up the grave issues of war and peace and of happiness and misery of a people, because if the Kashmir problem had been capable of settlement, if there had been a will to settle the Kashmir problem on honourable and equitable basis, that would have been a great and a glorious opportunity for the people of the sub-continent. It might have released new energies and new resources of mutual co-operation between the people of the sub-continent.

"But, unfortunately, India was not serious to settle the Kashmir problem. India did not really fear Chinese aggression because India knew, as well as the rest of us, that the conflict with China was no more than a border clash brought upon by India's own impetuousity. That being the position, India actually wanted to augment its resources and strength, not so much against Communist China, but against the country which it had declared to be her 'Enemy Number One'. We are, therefore, to-day on the threshold of a very important and a very delicate phase of our national life. How best we can maintain our security and national integrity is a matter which is seriously engaging the attention of the Government. But we know this much, and this much can be said, that, God forbid, if there was to be a clash, if India were in her frustration to turn her guns against Pakistan the international situation is such to-day that Pakistan would not be alone in that conflict.

"A conflict does not involve Pakistan alone. Attack from India on Pakistan today is no longer confined to the security and territorial integrity of Pakistan. An attack by India on Pakistan involves the territorial integrity and security of the largest state in Asia and, therefore, this new element and this new factor that has been brought in the situation is a very important element and a very important factor. I would not, at this stage, like to elucidate any further on this matter, but suffice it to say that the national interest of another State itself is involved in an attack on Pakistan because that State and other States have known India's aggressive intentions and how India is capable of embarking on aggression against other countries. Therefore, a subjugated Pakistan or a defeated Pakistan is not only a question of annihilation for us but also poses a serious threat to other countries in Asia and particularly to the largest State in Asia. So from that point of view I think we can safely say that everything is being done both by the Government and the other international factors that have come into operation to see that our national interest and territorial integrity is protected and safeguarded.

"At the same time, Sir, I would like to say this much that in spite of this grave crisis that we face, we should not feel alarmed to the point of creating some sort of mental, physical and moral imbalance in our national life. The people have to face the crisis. Pakistan has faced many of them but it should be faced with calm, dignity and in a manner in which we have responded to the crises in the past.

"The United States of America has been of the view that it does not give military assistance to Pakistan against India, that the military

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assistance that Pakistan has received is not supposed to be directed against India and therefore, the military assistance that India is receiving is not supposed to be directed against Pakistan.

"Just as they can ensure that their arms and armaments are not directed by Pakistan against India and that they are controllable so also, they say, they are in a position to see that the arms given to India will not be directed against Pakistan. Although I have admitted that guarantees are of a dubious nature, there is, monetheless, this guarantee and though it is not sufficient yet it ss quite important in the context of the present situation.

"Now the question is that in order to prevent any conflict in the sub-continent, it is necessary to maintain a military balance between the two States. If it is necessary to maintain the military balance between the two States in the interest of their own security then it follows that it would be necessary also to correspondingly augment Pakistan's military strength to maintain that equilibrium and military balance between the two countries. The argument that they give military asistance to Pakistan to be used against India is no longer valid, because, as I have submitted, if military assistance to India is controllable and cannot be used against Pakistan, their further augmentation of Pakistan's military strength in order to maintain a balance need not also be directed against India and to that extent that added military assistance is also capable of a being controlled. What is most imperative is that there should be a military balance between India and Pakistan in the interest of peace and to see to it that the balance is not upset in such a number that one State can embark on aggression against the other State.

"We have gone through many vicissitudes in our relations with the Western Powers and even today it is not a choice of ours that we show this concern and we are not responsible for the present deterioration in relations between us and the Western Powers. It is for the Western Powers to arrest this deterioration and it is for them to act and to see to it that Pakistan's security and Pakistan's political, economic and social system are not threatened in any form or fashion. We are not responsible for the present deterioration and if that deterioration is to be arrested it is for the Western Powers to devise ways and means to arrest that situation so that our relations may remain friendly and cordial and we may have no cause to feel that a break has come in our relationship or that our relationship has become so strained as to bring about a deterioration which would not be in the interest of friendly relations between Paksitan and the United States and the United Kingdom.

"On the question, Sir, of our negotiations with India over Kashmir, the House wanted to be particularly informed. I would like to take this opportunity to mention briefly the outcome of the negotiations. We met in Rawalpindi and it was a meeting to discuss the preliminaries—the point of view of India and the point of view of Pakistan, the various issues involved on the side of India, India's contention on Kashmir and Pakistan's contention on the Kashmir dispute. We went through the historical aspects of the problem and of our respective stands. In Delhi, where we had the second round of talks, we pressed further our point of view as being the only honourable and best method of solving the Kashmir problem i.e. it was for the people of Kashmir to decide their future by their

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free will. Then at the third round of talks we continued pressing for the plebiscite under the United Nations aegis and India raised its various objections to the question of a plebiscite either general or limited.

"In the fourth round of talks, the Indians gave to us what they regarded to be their proposal and that was what they had actually in the past hinted at and also mentioned and which was nothing more than a re-adjustment of the existing Cease-fire line. They were told at the meeting that at the very outset in the first round of talks in Rawalpindi we had told them that if they were to put forward a proposal on the basis of the Cease-fire it would be unacceptable from all points of view and that it would be desirable for them not even to discuss it as a starting point. Nonetheless that was the proposal that was made and it was summarily rejected by Pakistan. Thereafter we were advised and told by our friends that this was only the beginning, and a starting point has to be made. It should not be considered to be the final one and that we should persist in the negotiation to come to a more meaningful statement. In the fifth round of talks the issues were confined not to Kashmir but to the question of our boundary agreement with China. Thereafter, in the sixth and the final round, in which we rejected their proposal, we informed them that a plebiscite was the only honourable, practical and proper basis of the settlement of the Kashmir problem. We were quite willing to segregate the Valley of Kashmir for a period of a year to be under international control and at the end of that year plebiscite should be held or the wishes of the people should be determined in some form or fashion and after the determination of their wishes the people's future should be decided on that basis.

"This proposal which we considered to be an important one in the interest of arriving at an honourable and equitable settlement of the Kashmir dispute was also rejected by India.

"I may mention here that the proposal for an impartial plebiscite or the proposal of a formal plebiscite was made also in the past by Sir Owen Dixon and Gen. McNaughton and these proposals were accepted by the then Government of Pakistan. The only variation here was that we even agreed to limit the plebiscite to the Valley which is the crux and heart of the problem and where the majority of the people live, contended by us that for a period of a year or so—at the most a year or 15 months—there should be some other agency—an impartial international agency—to supervise and control the Valley and that they should be empowered to have a plebiscite at the end of that period. This too was rejected by India as being a proposal which was in essence the same as had been mentioned and advocated by Pakistan in the past.

"Now it has been often asked whether there has been an advantage of entering into negotiations with India. I think history will pronounce whether there has been an advantage or not ? But it is our view that Pakistan has definitely gained by having entered into these negotiations with India and I will briefly mention the reasons. First of all the problem of Kashmir was more or less shelved as far as the United Nations is concerned ; that emergency and urgency which arose in the beginning as a result of dispute and when it went to the Security Council had been lost. India had in the meantime consolidated her position in Kashmir and the Security Council had rid itself not only on this account but also

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on account of the Soviet veto which was always exercised whenever an attempt was made to bring some resolution which would bring into operation the first two Resolutions on the Kashmir problem.

"That was the position and also, in the last 10 years, India had built her fortress on the assumption that there was no Kashmir problem ; that Kashmir was an integral and inseparable part of India ; that constitutionally, politically, and economically, it was as much a part of India as any of her provinces ; that the Constituent Assembly of Kashmir had taken certain fundamental decisions as to the future ; that they had two elections in Kashmir and as far as the reality of international politics were concerned there was no such thing as the Kashmir dispute or the Kashmir problem. In this point of view, they were supported by certain important and powerful States known to this House. It was not only a point of view which India put forward but the point of view which was advocated and supported by powerful States in the world and one of which—the very important one– has the right of veto in the Security Council. Whenever we entered into negotiations with India on Kashmir she played it up that there was no such thing as Kashmir problem, but the negotiations themselves were evidence of the fact that the Kashmir problem existed ; it existed very much in the thoughts. Today it is the major issue that affects the international peace and security.

"At the end of our negotiations in July there was another communique in which it was admitted by India that the negotiations did not result in a settlement of the Kashmir dispute. So, Sir, that point of view India has not only followed and repeated on its own submission and on its own effort to argue before the world that there is no such problem as Kashmir, but it has brought about great embarrassment because of the fact that other great Powers supported this Indian contention. Moreover, there is evidence both in the Indian Press and the Indian public as reflected in the Indian Press reports to say that out of these negotiations, if any benefit accrued, it did not accrue to India. We have lost nothing from it. On the contrary, I would like humbly to submit that Pakistan has gained ; it has again focussed and highlighted the importance of Kashmir dispute in the international arena and its importance today is recognized and this importance will remain to be recognized until an honourable and equitable solution of it is found.

"The Members of the House also wanted to be informed on the boundary agreement with China. On that also, Sir, we entered into negotiations with China in December 1960. I would not say entered into negotiations in December 1960; we had decided in December 1960 to make a proposal to the People's Republic of China to demarcate our undefined boundary and I think it was in January 1961, that the proposal was formally made to the People's Republic of China.

"There was some preliminary negotiation on the matter but no substantial progress was made. However, at that time India had contended and put forward the plea to the People's Republic of China that Pakistan had no authority to negotiate for that part of Kashmir, which though under Pakistan's physical control, is the State of Jammu and Kashmir and legally a part of India, and India was the only rightful authority and the only sovereign country to negotiate a settlement of the boundary with the

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People's Republic of China.

"In support of this contention she tried to muster assistance of the Soviet Union and other Powers. Though our negotiations were progressing, they were progressing in an unsatisfactory fashion. Then at the time of the Sino-Indian conflict an impetus was given to these negotiations and we can understand why an impetus should have been given to these negotiations because no State would like to face any problem or any unresolved situation on two fronts. Be what it may, we were, according to us, the gainers for entering into negotiations and delimiting our frontiers ; and we accepted the proposal. The late Mr. Mohammad Ali was to go to the People's Republic of China to negotiate and conclude the boundary agreement, but unfortunately due to his sad demise I had to go ; and we came to a speedy and satisfactory conclusion of the boundary delimitation in which Pakistan has gained about 780 sq. miles of territory. Some of it are very rich in natural resources and particularly the salt mines of Shamshal, which the people of Hunza and surrounding territory consider necessary for their livelihood and for their economic well-being. Moreover, more important than that, we have removed the prospects of boundary friction on our only frontier ; it is now defined and delimited as far as the People's Republic of China is concerned and we have eliminated what may perhaps have been a source of friction and source of misunderstanding in the future".*

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HISTORICAL BACKGROUND OF HAZRATBAL SHRINE AND THE SACRED RELIC

The mosque at Hazratbal on the western bank of the Dal Lake has acquired special sanctity for its being the repository of a sacred hair of the Prophet. The mosque was originally built by Shah Jehan and depicts curious blend of the Mughal and Kashmirian architectures. The walls and the portico of the mosque are built in brick masonary, resting on a plinth of dressed stone. The roof in three tiers follows the traditional style of Islamic architecture of Kashmir.

How the sacred relic came to Kashmir is an interesting story in itself. It remained with the descendants of the Holy Prophet until it reached Sayyid Abdullah, the Mutawalli of the Prophet's shrine in Medina. In the year 1634 the Sayyid left for India with his family and arrived at Bijapur (Deccan). Two years later he was granted a *jagir* by the ruler there and he stayed on for twentythree years. On his death Sayyid Abdullah handed over the sacred relic to his son, Sayyid Hamid. The latter continued to live in Bijapur till the kingdom was conquered by Aurangzeb in 1692 A.D. Sayyid Hamid went to Jehanabad to get his *jagir* returned.

During those days a Kashmiri trader, named Khwaja Nur-ud-din Ashwari, was carrying on a prosperous business at Jehanabad and Sayyid Hamid being in distress sought his help. The Khwaja readily gave him the money and requested him to let him have the sacred relic. The request was promptly turned down, but the same night the Sayyid

*The agreement is subject to ratification by any authority which may emerge in the area as a result of settlement of Kashmir dispute.

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was directed in a dream by the Holy Prophet to hand over the hair relic to Khwaja Nur-ud-din.

Khwaja Nur-ud-din Ashwari left for Kashmir with the relic but at Lahore he was detained by Aurangzeb, who wanted to keep the sacred relic in Ajmer. The Khwaja was deeply shocked at being relieved of the relic and he died at Lahore. expressing his last wish to a friend, Khwaja Medanish that should he succeed in getting back the relic, it should be taken to Kashmir and lodged there at a suitable place. Aurangzeb, too, was directed in a dream by the Prophet to hand over the relic to Khwaja Medanish, who carried it to Kashmir where, in the words of Khwaja Azam, an eye-witness, 'there was great enthusiasm among the people who rushed like a stream in flood to pay their homage to holy relic.'

After being kept for some time in the Khanqah of Naqshband it was finally lodged in the mosque built earlier by Shah Jehan at Hazratbal. The body of Khwaja Nur-ud-din was also buried near the Ziarat.

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Summation of Security Council Debate by President Seydoux on May 18, 1964 (1117th Meeting)

"The members of the Council had noted that the debates were a follow-up of the discussions of last February and March. They had recalled that they had, particularly in February, expressed the views of their Governments on the basic facts of the matter, including the pertinent resolutions of the United Nations, the question as to the judicial status of Jammu and Kashmir, and the principles of the Charter applicable to the case. They confirmed that the statements they had made at the time were still valid.

(b) The members expressed their concern that these two great countries should have good relations between them and the opinion that the present difficulties between them—particularly the question of Jammu and Kashmir—should be settled amicably in the interest of world peace.

(c) The members expressed the feeling that recent developments might lead to softening of the position adopted, and to better mutual understanding, and, therefore, to a situation in which conversations between the parties would have a better chance of leading to a settlement.

(d) The members expressed their conviction that everything should be done to consolidate these favourable elements and to avoid jeopardising the chances of success, and that this required an attitude of conciliation and moderation, on the part of two countries, and an attitude of prudence, as well as of careful and vigilant attention, on the part of the United Nations.

(e) The members expressed the hope that the parties would refrain from any act which might aggravate the situation and would take measures to re-establish an atmosphere of moderation between them, and also peace and harmony among the communities.

(f) The members further expressed the hope that, in the light of the Council's recent debates, the two countries would resume contact, as soon

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as possible, in order to resolve by negotiation their differences, in particular their differences related to Jammu and Kashmir''.

In the second part of his summation, the President stated that "a number of members of the Council expressed the view that the Secretary General might eventually give useful assistance to the parties to facilitate the resumption of negotiations on the question of Jammu and Kashmir or to assist in carrying out those negatiations if they should meet with any difficulties, other members, on the other hand, expressed the view that the negotiations between India and Pakistan might be complicated by the intervention of any outside elements and that the parties should be left to come to agreement on the very principle of turning to the Secretary-General.'

The President concluded by saying that "the India-Pakistan question remaines on the agenda of the Security Council."

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Section XVI

Constitutional Relationship of Kashmir with India And Pakistan

The Instrument of Accession signed by the Maharaja of Jammu and Kashmir on October 26, 1947 and accepted by the Indian Governor-General Lord Mountbatten on October 27, provides the basis of State's constitutional relationship with India. Most of the provisions of India Constitution have been made applicable to Jammu and Kashmir with certain exceptions and modifications by the Indian President in exercise of powers vested in him under article 370. The territories on the other side of the cease-fire line comprising Azad Kashmir have relations with Pakistan by mutual agreement. Standstill Agreement entered into by Kashmir with Pakistan in August 1947 appears to provide the constitutional foundation, Azad Kashmir authorities being the successor authorities to Maharaja's in the region. In Gilgit Leased Area and other Northern regions Pakistan acts in more or less the same manner as did the British before the transfer of power to India and Pakistan in August 1947. Article 221 of the Pakistan Constitution lays down 'that when the State of Jammu and Kashmir accedes to Pakistan relationship between Kashmir and Pakistan will be determined in accordance with the wishes of the people of the State.'

Articles 1 and 370 of the Indian Constitution are the only articles which apply of their own force to the State of Jammu and Kashmir. Article I defines the territory of India and the State of Jammu and Karhmir is included among these in schedule I, item 15. Article 370 gives powers to the President to apply other provisions of the Constitution to the State with "such exceptions and modifications as he may by order specify." Powers of the Parliament to make laws for the State are limited to those matters in the Union and Concurrent lists "which in consultation with the Government of the State, are declared by the President to conform to matters specified in the Instrument of Accession", and such other matters in the said lists as "with the concurrence of the Government of the State, the President may by order specify." In relation to application of other provisions of the Constitution, no order which relates to matters specified in the Instrument of Accession of the State shall be issued except in consultation with the State Government, and an order relating to other matters with the concurrence of the Government of the State. The article further required the matter to be placed before the Constituent Assembly of the State if such concurrence was obtained before its being convened. Article 370 also lays down that "the President may, by public notification declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that recommendation of the Constituent Assembly of the State shall be necessary before the President issues such a notification."

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Constitution (Application to Jammu and Kashmir) Order, 1954 is the major order issued by the President under Article 370. The Order has been amended from time to time to apply more provisions of the Constitution to Kashmir. The order came in implementation of the Delhi Agreement of 1952 between Sheikh Abdullah's Government in Kashmir and the Government of India to extend provisions relating to fundamental rights, Supreme Court, and other matters to Kashmir although it was issued long after the dismissal and detention of the Kashmir Prime Minister.

Since Indian Governor-General had accepted Maharaja's Instrument of Accession intimating to the State ruler that ultimate decision on the question of accession shall be by reference to the wishes of people of Kashmir, Article 253 giving power to the Parliament to legislate to give effect to international agreements etc. was specifically extended to Kashmir with the proviso that 'no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State.' The article thus envisages the disposition of the State in keeping with international agreements. Since U.N., and Foreign Affairs are exclusively Union subjects, article 3 of the State Constitution declaring 'Kashmir is and shall be a part of India' appears in direct conflict and beyond the competence of Constituent Assembly, as indeed impliedly stated by Sir B.N. Rao in the Security Council—that 'it can take no decision on the subject.''

"The object behind enacting Article 370", according to Supreme Court ruling in Puran Lal Lakhanpal VS the President of India in 1961", "was to recognize the special position of the State of Jammu and Kashmir and provide for that special position by giving power to the President to apply the provisions of the Constitution to that State with such exceptions and modifications as the President might by order specify." 'It seems to us that when the Contitution used the word modification the intention was that the President would have the power to amend the provisions of the Constitution if he so thought fit in their application to the State of Jammu and Kashmir", their Lordships further held. Provisions relating to amendment of the Constitution (article 368) appply to Kashmir. While no consultation with or consent of the State Government is required for amending provisions of the Constitution including article 370, no such amendment shall apply to Kashmir except by an order under article 370. Power of the President as defined by the Supreme Court enables him to amend, and not partially alter, as is generally understood by modification, provisions of Indian Constitution as applied to Kashmir.

Article 370 follows sub-heading, "Temporary Provisions with respect to the State of Jammu and Kashmir," implying the constitutional relationship between Kashmir and India to be temporary and transitional". The intention was made clear by Indian Cabinet Minister Mr. N. Gopalsaswami Ayyanger while presenting the article (then draft art 306 A) in the Constituent Assembly on October 17, 1949. He said :

"We are still entangled with the United Nations in regard to Jammu and Kashmir and it is not possible to say now when we shall be free from this entanglement. That can only take place when Kashmir problem is satisfactorily settled. Again, the Government of India have committed

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themselves to the people in certain respects. They have committed themselves to the position that an opportunity would be given to the people of the State to decide for themselves whether they will remain with the Republic or wish to go out of it. We are also committed to ascertaining the will of the people by means of a plebiscite provided that peaceful and normal conditions are restored and the impartiality of the plebiscite would be guaranteed .."

The special position of Kashmir resulting out of the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended by Presidential Orders issued in 1956, 1958, 1959, 1960, 1961, 1963 and 1964 may be summarised as follows.

The State stands on a totally different footing from other States in the matter of residual powers which vest in the State and not in the Centre. No bill altering the name or boundaries of the State of Jammu and Kashmir can be introduced in Parliament without the consent of the State Legislature while in respect of others President is required only to obtain views of the Legislatures of the States affected. Not Parliament but Jammu aud Kashmir Lagislature can prescribe conditions of residence in the State for the purposes of employment etcetra. Members of Lok Sabha from the State are nominated by the President on the recommendation of the State Legislature and not directly elected as in the rest of India (According to a statement made by the Home Minister in Indian Parliament these members will be directly elected to the Lok Sabha in future after the lapse of Proclamation of emergency). No financial emergency can be declared in the State and consent of the State Government is required for emergency on grounds of internal disturbances.

Directive Principles of State Policy, Part IV of the Constitution, do not apply to the State of Jammu and Kashmir. Nor does the directive for propagation of Hindi as the State language. Fundamental rights under Chapter III are guaranteed to people in the State with major exceptions. Parliament has no right to pass a law of Preventive Detention for the State nor can the Centre direct the detention or release of any person. Except for the right to practice any profession or to carry on any occupation, trade or business, reasonable restrictions imposed on rights guaranteed under Article 19—which can be done additionally in the interest of the Security of the State—are not justiceable as they are to be construed as meaning such restrictions as the appropriate legislature deems reasonable. These rights relate to (a) freedom of speech and expression; (b) to assembe peaceably and without arms ; (c) to form associations or unions ; (d) to move freely throughout the territory of India ; (e) to reside and settle in any part of the territory of India and (f) to acquire hold and dispose of property. This exception was initially made for five years but has been twice extended. It lasts under the present Order upto 1969.

The State Preventive Detention Act also enjoys a similar protection under the Constitution upto 1969—in the original order it was upto 1959. None of its provisions can be declared *ultravires* for inconsistency with provisions of Part III so long as the protection lasts. The State's power to with hold grounds of detention from a detenu where he is detained in the interest of Security of State, if they are considered to be against

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public interest was upheld by the Supreme Court of India in 1955 in P. L. Lakhanpal VS The State of Jammu and Kashmir : intervener Union of India which was the first *Habeas Corpus* petition to be decided by the Supreme Court after the extension of its jurisdiction to Kashmir. In a later case Abdul Jabbar Butt VS The State of Jammu and Kashmir the Supreme Court held that the State Government must make a declaration within reasonable time that it is against public interest to disclose the grounds of detention to enjoy the protection. Powers of Supreme Court can not be conferred on any other Court in Kashmir.

Immunity to the Head of the State (Effective April 10, 1965, the designation of the Sadar-i-Riyasat has been changed to Governor, no order under Art. 370 giving effect to the change was, however, issued upto April 24) is made subject to such rules as may be framed by the State Legislature. Entries relating to Central Intelligence Bureau, Cinematograph films for exhibition, Court of Wards, inter-State migration and any other matter not in the Concurrent and State lists are among the important entries which do not apply to Kashmir.

No Indian citizen can purchase property in the State of Jammu and Kashmir or become a permanent resident of the State except under special permission granted by the State Cabinet. All State subjects, however have the rights and privileges of Indian citizens throughout the country.

Under the State Constitution framed in 1956, 25 seats are left vacant in the 100 member State Legislative Assembly. Upper House—Legislative Council has a strength of 36. 45 Seats in the Assembly are allocated to Kashmir Valley and Ladakh and 30 to Jammu Province. The State has a flag of its own.

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Articles I And 370 Of India's Constitution

Name and territory of the Union :

1. (1) India, that is Bharat, shall be a Union of States.
(2) The States and the territories thereof shall be as specified in the First Schedule.
(3) The territory of India shall comprise—
(a) the territories of the States :
(b) the Union territories specified in the First Schedule ; and
(c) such other territories as may be acquired.

First Sechedule

(*Article 1 and 4*)

15. Jammu and Kashmir – The territories which immediately before the commencement of this Constitution were comprised in the Indian State of Jammu and Kashmir.

Temporary provisions with respect to the State of Jammu and Kashmir

[1]370. (1) Notwithstanding anything in this Constitution,—
(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir.
(b) the power of Parliament to make laws for the said State shall be limited to—
(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are

1 In exercise of the powers conferred by this article the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir,

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declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State ; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify

Explanation—For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948 ;

(c) the provisions of article 1 and of this article shall apply in relation to that State ;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by [1]order specify ;

Provided that no such order which relates to the matters specified in the Instrument of Accessson of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State :

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (I) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify :

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

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declared that, as from the 17th day of November, 1952 the said Art. 370 shall be operative with the modification that for the **Explanation** in cl. (1) thereof, the following **Explanation** is substituted, namely :—

"**Explanation**—For the purposes of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office."

(Ministry of Law Order No. C.O. 44, dated the 15th November, 1952).

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THE CONSTITUTION (APPLICATION TO JAMMU & KASHMIR) ORDER 1954 (AS AMENDED UPTODATE)

In exercise of the powers conferred by clause (i) of article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following order :—

(1) This order may be called the Constitution (Application to Jammu and Kashmir) Order, 1954.

(2) It shall come into force on the 14th day of May 1954 and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1950.

2. The provisions of the Constitution *as in force on the 15th day of February 1958**, which in addition to Article 1 and 370 shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows :—

(1) The Preamble

(2) Part 1

To article 3 there shall be added the following further proviso, namely :—

'Provided further that no bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of the State.

(3) Part II

(a) This part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as form the 26th day of January 1950.

(b) To article 7 there shall be added the following further proviso, namely :—

"Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir, who after having so migrated to the territory now included in Pakistan, returns to the territory of that State under a permit for resettlement in the State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India".

(4) Part III.

(a) In article 13, the references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(b) In clause (4) of article 15 the references to scheduled tribes shall be omitted.

(c) In clause (3) of Article 16, the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(d) In Article 19 for a period of 15* years from the commencement of this Order :—

*Inserted by Const. (APP to J & K) second amendment order 1958
Substituted for ten by the Const. (APP. to J & K) second Amendment order of March 6, 1964.

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(i) in clause (3) and (4) after the words "in the interests of" the words, "the Security of the State or" shall be inserted,

(ii) in clause (5) for the words "or for the protection of the interests of any scheduled tribe" the words "or in the interests of the security of the State' shall be substituted;

(iii) the following new clause shall be added, namely :—

(7) The words 'reasonable restrictions' occurring in clause (2), (3), (4) and (5) shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable.

(e) In clause (4) and (7) of article 22, for the word 'Parliament', the words the 'Legislature of the State' shall be substituted.

(f) In article 31, clause 3, 4 and 6 shall be omitted ; and for clause (5) there shall be substituted the following clause namely :—

"(5) Nothing in clause (2) shall affect—

(a) the provisions of any existing law ; or

(b) the provisions of any law which the State may hereafter make—

(i) for the purpose of imposing or levying any tax or penalty; or

(ii) for the promotion of public health or the prevention of danger to life or property ; or

(iii) with respect to property declared by law to be evacuee property."

(g) In Article 31 A, the proviso to clause (1) shall be omitted ; and for sub-clause (a) of clause (2), the following sub-clause shall be substituted, namely :—

'(a) "estate", shall mean land which is or has been occupied let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

(i) sites of buildings and other structures on such land;

(ii) trees standing on such land;

(iii) forest land or wooded waste;

(iv) area covered by or fields floating over water;

(v) sites of *Jandars* or *gharats*

(vi) Any *Jagir*, *Inam*, *muafi* or *mukarart* or other similar grant but does not include—

(i) the site of any building in any town, town area or village *abadi* or any land appurtenant to any such building or site;

(ii) any land which is occupied as the site of town or village; or

(iii) any land reserved for building purposes in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned.'

(h) in article 32 clause (3) shall be omitted. and after clause (2); the following new clause shall be inserted; namely :—

" (2A) without prejudice to the powers conferred by clause (I) and (2) the High Court shall have power throughout the territories in relation to

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which it exercises jurisdiction to issue to any person or authority, including in appropriate cases any Government within those territories, directions or orders or writs, including writs in the nature of *habeas Corpus, mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by this part.

(i) In article 35—

(i) references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(ii) in clause (a) (i), the words, figurers and brackets " clause (3), of article 16, clause (3), of article 32" shall be omitted, and

(iii) after clause (b), the following clause shall be added, namely

"(C), No law with respect to preventive detention made by the Legislature of the State of Jammu and Kaahmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this Part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of fifteen years* from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof."

(J) After article 35 the following new article shall be added namely.

"*35 A. Saving of laws with respect to permanent residents and their rights* :—Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State,—

(a) defining the classes of persons who are, or shall be permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges, or imposing upon other persons any restrictions as respects—

(i) employment under State Government;

(ii) acquisition of immovable property in the State;

(iii) settlement in the State;

(iv) right to scholarships and such other forms of aid as the State Government may provide,

Shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part."

(5) Part V

(a) In articles 54 and 55 the references to the elected members of the House of the People and to each such member shall include references to the representatives of the State of Jammu and Kashmir in that House; and the population of the State shall be deemed to be forty four lakhs and ten thousand.

(b) article 81 shall apply subject to the modification that the representatives of the State in the House of the People shall be appointed by the President on the recommendation of the Legislature of the State.

Substituted for ten by Constn. (App to J & K) Amendment Order of March 6, 1964.

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(c) In article 134, clause (2), after the words "Parliament may" the words "on the request of the Legislature of the State" shall be inserted.

(d) Articles 135 and 139 shall be omitted.

"(5A). Part VI*

(a) Art. 153-217, article 219, articles 221 and articles 223 to 237 shall be omitted.

(b) In article 220 references to the commencement of the Constitution shall be construed as references to the commencement of the Constitutions (Application to Jammu and Kashmir) Amendment Order 1960.

(c) To article 222, the following new clause shall be added namely :-

'(2) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Sadar-i-Riyasat.

(6) Part XI

(a) In article 246, for the words, brackets and figures "clauses (2) and (3)" occurring in clause (i) the words brackets and figures "clause (2)" shall be substituted, and the words brackets and figures. "Notwithstanding anything in clause (3)" occurring in clause (2) and the whole of clause (2) and (4) shall be omitted.

(b) articles 248 and 249 shall be omitted.

(c) In article 250 for the words 'to any of the matters enumerated in the State List' the words "also to matters not enumerated in the Union List" shall be substituted.

(d) In article 251, for the words and figures "articles 249 and 250" the words and figures "article 250" shall be substituted and the words "under this Constitution" shall be omitted, and, for the words "under either of the said articles the words 'under the said article' shall be substituted.

(e) To article 253, the following proviso shall be added, namely;

'Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State."

(f) Article 255 shall be omitted

(g) Article 256 shall be renumbered as clause (i) of that article, and the following new clause shall be added thereto, namely :-

'(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State, and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitration appointed by the Chief Justice of India.'

Inserted by Const (App. to J. & K) Amendment order 1960.

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(h) In clause (2) of article 261, the words "made by Parliament" shall be omitted.

(7) Part XII

(a) Clause (2) of article 267, article 273, clause 2 of article 2 3, articles 290 and 291 shall be omitted.

(b) In article 266, 282, 284, 299 and 300 references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

(c) In articles 277 and 295 references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(8) Part XIII

In clause (1) of article 303, the words 'by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule' shall be omitted.

(9) Part XIV

In article 312 after the words 'the States' the brackets and words (including the State of Jammu and Kashmir) shall be inserted.

(10) Part XV

(a) In clause (1) of article 324 the reference to the Constitution shall, in relation to elections to either House of Legislature of Jammu and Kashmir, be construed as a reference to the Constitution of Jammu and Kashmir.

(b) Articles 325, 326, 327 and 328 shall be omitted.

(c) In article 329. clause (a) shall be omitted, and in clause (b) the reference to a State shall be construed as not including a reference to the State of Jammu and Kashmir.

(11) Part XVI

(a) Articles 331, 332, 333, 336, 337, 339 and 342 shall be omitted.

(b) In article 330 references to the 'Scheduled Tribes' shall be omitted.

(c) In articles 334 and 335 references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

(12) Part XVII

The provisions of this Part shall apply only in so far as they relate to :—

(i) the official language of the Union

(ii) the official language for communication between one State and another, or between a State and the Union; and

(iii) the language of the proceedings in the Supreme Court.

(13) Part XVIII

(a) To article 352 the following new clause shall be added, namely :

'(4) No Proclamation of Emergency made on ground only of internal disturbance or imminent danger thereof shall have effect in relation

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to the State of Jammu and Kashmir (except as respects article 354) unless it is made at the request of or with the concurrence of the Government of that State".

"(b) In clause (1) of article 356, references to Provisions or provision of this Constitution shall, in relation to the State of Jammu and Kashmir, be construed as including references to provisions of the Constitution of Jammu and Kashmir".

(c) Article 360 shall be omitted.

(14) Part XIX

(a) In article 361, after clause (4), the following clause shall be added, namely.

"(5) The provisions of this article shall apply in relation to the Sadar-i-Riyasat of Jammu and Kashmir as they apply in relation to a Governor, but without prejudice to the provisions of the Constitution of that State".

(b) Articles 362 and 365 shall be omitted

(c) To article 367 there shall be added the following clause, namely:—

"(4) for the purpose of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or the provisions thereof shall be construed as references to the Constitution or the provesions thereof as applied in relation to the said State ;

(b) references to the Government of the said State shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers ;

(c) references to a High Court shall include references to the High Court of Jammu and Kashmir ;

(d) reference to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, were recognized as State subjects under the laws in force in the State or who are recognized by any law made by the State Legislature as permanent residents of the State, and

(e) references to the Governor shall be construed as references to the person for the time being recognized by the President as the *Sadar-i-Riyasat* of Jammu and Kashmir and as including references to any person for the time being recognized by the President as being competent to exercise the powers of the *Sadar-i-Riyasat.*

(15) Part XX

To article 368, the following proviso shall be added, namely:—

"Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of article 370".

*Article 356 and 357 were extended by Const. & App to J&K Amendment Order Dec 21, 1964.

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(16) Part XXI

(a) articles 369, 371, 372A, 373, clauses (1) (2) (3) and (5) of article 374 and articles 376 to *378A* and 392 shall be omitted.

(b) In article 372

(i) clauses (2) and (3) shall be omitted.

(ii) references to the laws in force in the territory of India shall include references to *hidayats, ailans, ishtihars* circulars, *robkars, irshads hyadashts,* State Council Resolutions, Resolutions of the Constituent Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir ; and

(iii) references to commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954.

(c) in clause 4 of article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act, 1896, and references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(17) Part XXII : Articles 394 and 395 shall be omitted
(18) First Schedule
(19) Second Schedule
(20) Third Schedule
(21) Fourth Schedule
(22) Seventh Schedule
(a) In the Union List

(i) for entry 3, the entry "3. Administration of cantonments" shall be substituted;

(ii) entries 8, 9 and 34; the words "trading corporations including" in entry 43, entry 60; the words "and records" in entry 67, 78 and 79, and the words "Inter-State migration" in entry 81, and entry 97 shall be omitted.

(iii) In entry 44, after the words 'but not including universities," the words "in so far as such corporations relate to the legal and medical professions" shall be inserted; and

(iv) In entry 72, the references to the States shall be construed as not including a reference to the State of Jammu and Kashmir.

(b) The State List.

(c) In the Concurrent List—

(1) For entry 1, the following entry shall be substituted, namely :—

"1. Criminal law (excluding offences against laws with respect to any of the matters specified in List I, and excluding the use of naval, military or air force or any other armed force of the Union in aid of civil power, in so far as such criminal law relates to offences against laws with respect to any of the matters specified in this List.

(ii) in entry 24, after the words "and maternity benefits", the words "but only with respet to labour employed in the coal-mining

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industry'' shall be substituted.

(iii) for entry 26 the entry "26 legal and medical professions'' shall be substituted.

(iv) For entry 30, entry "30 vital statistics in so far as they relate to births and deaths including registration of births and deaths'' shall be substituted.

For entry 33, the following entry shall be substituted, namely :

"33. Trade and commerce in, and the production, supply and distribution of, the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, in so far as such industry relates to gold, and imported goods of the same kind as such products''.

(vi) for entry 34 the entry "34. Price control of gold'' shall be substituted.

(vii) entries 2 to 23 (both inclusive), entries 27, 28. 29, 31 and 32 (both inclusive), entries 35 to 38 (both inclusive) and entries 40 to 44 shall be omitted ; and in entry 45, for the words and figures "List'' 11 or list 111 the words "this List'' shall be substituted.

23. Eighth Schedule

24. Ninth Schedule

After entry 20 the following entries shall be added, namely :-

21. The Jammu and Kashmir Big Landed Estates Abolition Act (No. XVII of 2007)

22. The Jammu and Kashmir Restitution of Mortgaged Properties Act (No. XVI of 2006)

23. The Jammu and Kashmir Tenancy Act (No. II of 1980)

24. The Jammu and Kashmir Distressed Debtors Relief Fund (Act No. XVII of 2006)

25. The Jammu and Kashmir Alienation of Land Act (No. V of 1995)

26. Order No 6-H of 1951 dated 10th March 1951 regarding resumption of jagirs and others assignments of Land Revenue etc.

27. The Jammu and Kashmir State Kuth Act. (No. of 1 of 1978.)*

Sections 6 to 10 of Kashmir State Constitution Relating To State Subjects

6 (1) Every person who is, or is deemed to be a citizen of India under the provisions of the Constitution of India shall be a permanent resident of the State if on the fourteenth day of May 1954.

(a) he was a State subject of class I or of class II; or

(b) having lawfully acquired immovable property in the State he has been ordinarily resident in the State for not less than ten

*State Bikrami Calendar begins 57 years before Christ.

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years prior to that date.

(2) Any person who before the fourteenth day of May 1954 was a State subject of class I or of class II and who having migrated after the first day of March 1947, to the territory now included in Pakistan returns to the State under a permit for resettlement in the State or for permanent return issued by or under the authority of any law made by the State Legislature shall on such return be a permanent resident of the State.

(3) In this section the expression State subject of Class I or of Class II shall have the same meaning as in State Notification No. 1-L/84 dated the twentieth April 1927 read with State Notification No. 13/L dated the twentyseventh June 1932.

7. Unless the context otherwise requires all references in any existing law to hereditory State Subjects or to State Subject of class I or of class II or of class III shall be construed as references to permanent residents of the State".

8. Nothing in the foregoing provisions of this Part shall derogate from the Power of the State Legislature to make any law defining the classes of persons who are, or shall be, permanent residents of the State.

9. A bill making provision for any of the following matters, namely—

(a) defining or altering the definition of, the classes of persons who are, or shall be permanent residents of the State ;

(b) conferring on permanent residents any special rights or privileges ;

(c) regulating or modifying any special rights or privileges enjoyed by permanent residents shall be deemed to be passed by either House of the Legislature only if it is passed by a majority of not less than two-thirds of the total membership of that House.

10. The permanent residents of the State shall have all the rights guaranteed to them under the constitution of India.

—: o :—

Article 221 of Pakistan Constitution

Provision relating to the State of Jammu and Kashmir

221—when the People of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that State shall be deter mined in accordance with the wishes of the people of that State.

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Section XVII

Some Solutions of Kashmir Dispute

As far back as 1950, Sir Owen Dixon, U. N. Representative for India and Pakistan, proposed that India retain Jammu and Ladakh and Pakistan areas north and west of the cease-fire line and a poll be held only in the Valley of Kashmir to determine whether it wished to go to Pakistan or India. This proposal was accepted in principle by India while Pakistan agreed to discuss it without prejudice to its stand on an overall plebiscite being the best solution and most democratic method of settling Kashmir dispute.

Various other alternatives to an overall plebiscite as solution of Kashmir dispute have been proposed and considered at official and unofficial level since 1948. Late Sir B. N. Rao, India's Representative in the U. N., and Sir Mirza Ismail are credited with having favoured independent Kashmir as the best way out of the tangle. India's Minister without Portfolio incharge of Indo-Pakistan Affairs, late Sir N. Gopalaswami Ayyangar was also reported to be of the same opinion and indeed he handed over a note to Sheikh Abdullah in 1949 on their way back from the Security Council saying that independent Kashmir was the only feasible, practicable and honourable solution for all parties : According to circles close to Late Sardar Vallabhbhai Patel, India's Deputy Prime Minister favoured an outright partition of Kashmir and was the least enthusiastic about the Valley of Kashmir being intergrated with India. Late Prime Minister Nehru proposed in 1956 settlement on the basis of minor adjustment of the cease-fire line. This, however, was summarily rejected by Pakistan.

Plebiscite for the whole State with people given three choices India, Pakistan or independence ; independence for the whole State ; condominium and Dixon plan with independence for the Valley were the alternatives proposed in 1953 by the high-level Committee of the National Conference presided over by Sheikh Abdullah. Anyone of these solutions can as such be considered as acceptable to him.

The End Kashmir Dispute Convention presided over by Mr. Puran Lal Lakhanpal in Delhi in 1960 proposed referendum elections to a Constituent Assembly for the whole State with candidates given the choice to stand for India, Pakistan or independence and each region deciding for itself according to the stand of the majority of the candidates elected. To overcome controversy about the quantum and disposition of troops, it proposed the poll being held piece-meal first in areas not adjacent to cease-fire line after their being demilitarised and then in areas adjacent to the cease-fire line with armies pulled back into areas where poll has already taken place.

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Lord Attlee, and Mr C. Rajagopalachari have proposed independence for the State with Foreign Affairs and Defence under the joint control of India and Pakistan, and under U. N. control respectively.

The former British Prime Minister, Lord Attlee, in a letter to Mr. Puran Lal Lakhanpal, however, lent support to his revised formula on Kashmir "saying your fruitful suggestions provide a possible fair line of settlement (of Kashmir dispute) between India and Pakistan."

Mr. Lakhanpal proposed a round-table conference between leaders of India, Pakistan, and Kashsmir to work out a settlement on the basis of India retaining Jammu and Ladakh, Pakistan Gilgit Baltistan, and Kargil (northern regions) and India pulling out of the Valley and Pakistan out of Azad Kashmir to let the two being combined into a neutralized autonomous Zone. Both Indians and Pakistanis should have guaranteed free access to the new State and for a limited number of years India may be given the right to maintain defence line to Ladakh through Srinagar Valley and Pakistan to Gilgit etc. through Azad Kashmir side. A Composite Government of the existing Governments of Indian part and Azad Kashmir with addition of representatives of opposition parties should be constituted to conduct elections for an Assembly for the State. The neutralized autonomous Kashmir, according to the formulla, would obviate the need of its maintaining a separate defence force as it would have no international borders except with India and Pakistan ; cause no dislocation whatsover of populations on two sides of the existing cease-fire line, and provide a fair compromise for both India and Pakistan. The new State may by mutual agreement be debarred from entering into alliances with foreign States and permitted to conduct its trade relations with foreign countries through both neighbours. The formula evoked considerable interest in India, Pakistan, and Kashmir, and when reported by Selig Harrison in "Washington Post " came to be called as Talbot Plan although Harrison had simply lifted it from Mr. Lakhanpal's Sunday Evening Newspaper 'Evening View'. Many in Azad Kashmir also lend support to a settlement on these lines. An Azad Kashmir Editor, Mir Abdul Aziz, has written numerous articles in favour. While official circles are understandably reluctant to comment, chances are that both India and Pakistan may come round to it as it tends to satisfy largest sections of the people in Kashmir, India and Pakistan.

One hundred important citizens of Kashmir in 1963 proposed creation of a neutralized independent Kashmir Valley with India retaining Jammu and Ladakh for the time being and Pakistan Azad Kashmir areas. Rajouri, Doda, Gulabgarh and Poonch, they said should be joined to Kashmir. The U.N. should be responsible for defence of the area. Its ultimate status should be determined by a poll in the region. Pakistan, as stated in an earlier section proposed internationalisation of the valley and a plebiscite being held after 12 or 15 months or their wishes being ascertained in some form about their future status.

[The biggest hurdle in the way of an overall plebiscite, apart from the failure of two parties to reach a Truce Agreement, it may be stated here, is the question of the poll of people displaced as a result of disturbances in 1947. According to UNCIP resolutions they are free to return to their orginal homes and record their vote. This involves some 500,000 people on Pakistan and almost an equal number on Indian side of cease-fire line].

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Some Solutions Of Kashmir Dispute

Socialist Leader, Dr. Rammanohar Lohia, proposed in 1962 a confederation between India, Pakistan and Kashmir as a way out. Acharya Vinobha Bhave, the Sarvodhya and Bhoodan leader, also proposed the same and it was said to have been discussed between Sheikh Abdullah and Pandit Nehru also. Pakistan, is, however, violently averse to the proposal as it suspects therein a design ultimately to end its independent entity.

Since his release on April 8, 1964 Sheikh Abdullah has talked in most general terms about the need for settlement of Kashmir dispute His main emphasis has been on the need for Indo-Pak amity and the dispute being settled in a manner so as not to cause loss of face either to India or Pakistan. He has expressed opposition to the partition of the State. He has declared independent Kashmir difficult of achievement and maintenance unless agreed to by its powerful neighbours. He has not so far indicated his preference for any solution but has urged a round-table conference of the three parties concerned to work out honourable solution acceptable to, and in the best interests of all.

Some elements in India and Kashmir have of late been canvassing support for a confederation between India and Kashmir with door left open for Pakistan to join in at a later stage. The proposal is apparently motivated by a desire to keep Kashmir closer to India. It, however, evokes little sympathetic consideration in India or Pakistan since confederation means coming together of two or more sovereign States with right to withdraw at any stage, it is bound to provoke voilent opposition among orthodox elements in India. Pakistan, in view of the past history of the sub-continent is naturally allergic to any solution implying certain reservations. The two countries, at the moment, have sharp differences of policy in Foreign Affairs, Defence, and even in economic matters, ruling out even consideration of a Confederation proposal by Pakistan. While some loose form of confederation may be a desirable objective, to ask for it as a way out of the Kashmir dispute is described by most people in India and Pakistan as putting the cart before the horse. Kashmir dispute has to be solved first to usher in a new climate of peace and friendship between India and Pakistan. Ways to bring about closer cooperative action in domestic and international spheres to their mutual advantage and in the best interest of world peace and cooperation can be explored only thereafter.

Notwithstanding their official stand, a sizable section of opinion in the Congress, PSP, Jan Sangh and other Indian parties which declare Kashmir to be an integral and irrevocable part of India favours settlement of Kashmir dispute through direct negotiations between India and Pakistan. Republican Party of India, in its last election manifesto, went to the extent of supporting a plebiscite to decide the Kashmir question. Its founder, late Dr. Ambedkar, favoured even an out-right partition of Jammu and Kashmir State. Swatantara Party has no official stand on the subject. But most of its members like to see a negotiated settlement of the dispute being worked out. It is generally opinion in Northern India which is emotionally agitated about Kashmir. Most people in South India appear to be least concerned and welcome an early settlement in the interest of India-Pak amity. Even in Northern India there appears to be an ever-growing realization of the need for settlement of Kashmir dispute and Indo-Pak amity.

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New Documents and References included in this Edition

(1) Area and population Statistics according to 1961 census.

(2) Extracts from Aitcheson's Sanad's, Treaties and Agreements on Kashmir.

(3) Mahatma Gandhi's comments on Kashmir.

(4) National Conference Memorandum to Cabinet Mission in 1946.

(5) Schedule to the Instrument of Accession.

(6) Nehru's broadcast (extract) of Nov. 2, 1947.

(7) Pakistan Foreign Secretary's Communication to Kashmir.

(8) Cease-fire line demarcation Agreement of July 19, 1949.

(9) Full Text of Owen Dixon's Report.

(10) Some letters exchanged between Prime Minister Nehru and Pak. Prime Minister Mohd. Ali.

(11) National Conference High Level Committee's alternative solutions of Kashmir dispute.

(12) Sheikh Abdullah's letter to Maulana Azad shortly before his dismissal and detention in 1953.

(13) Security Council Debate 1962 with Ireland's draft Resolution (vetoed by USSR).

(14) President Ayub Khan's statement on India-China conflict.

(15) Joint Comunique of Nov. 29, 1962.

(16) Bhutto's Statement in Pakistan National Assembly on Talks on Kashmir with Swaran Singh, on Sino-Pak boundary accord, and on arms aid to India.

(17) Security Council Debate 1964.

(a) With Summation by the President on May 18, 1964.

(b) Nehru's offer to revise and reverse policy on Kashmir.

(18) Constitution (Application to Jammu and Kashmir) Order, 1954 as amended upto Dec. 21, 1964.

(19) See 6 to 10 of Kashmir Constitution on State Subjects.

(20) Art. 221 of Pakistan Constitution relating to Kashmir.

(21) Some solutions of Kashmir dispute.

The End

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